



ASX RELEASE

Monday, 23 July 2007

### **Supplementary Prospectus**

Australian Power & Gas Company Limited (ASX: **APK**) advises that it has lodged today with the Australian Securities and Investment Commission (**ASIC**) a supplementary prospectus. This lodgement updates the information contained in the prospectus lodged with ASIC on 8 June 2006 and the supplementary prospectus lodged on 2 July 2007 and 18 July 2007.

**The initial prospectus, and this supplementary prospectus, has been prepared for the purposes of satisfying the secondary sale provisions of the Corporations Act 2001. The lodgements are to ensure the previously announced share issues to Cornell Capital Partners, LP and Fortress Credit (Australia) II Pty Limited (Fortress) do not breach the secondary share provisions.**

During its recent restructuring into a leading new entrant to the Australian energy market, APK was suspended for more than 5 days. Accordingly a normally applied exemption of issuing a simple statement under Section 708 of the Corporations Act at the time of new securities issues is not available to APK and a prospectus is required to be lodged from the time securities were issued.

APK will be issuing additional supplementary prospectus when material differences arise between previous lodgements and actual events, until January 2008.

### **For further information please contact:**

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**AUSTRALIAN POWER AND GAS COMPANY LIMITED**  
**ABN 96 077 206 583**

**SUPPLEMENTARY PROSPECTUS**

**1. IMPORTANT INFORMATION**

This Supplementary Prospectus is dated 23 July 2007 and is supplementary to the prospectus dated 8 June 2007 issued by Australian Power and Gas Company Limited (ABN 96 077 206 583) (**Company**) (**Prospectus**) and the following prior supplementary prospectuses issued by the Company (**Prior Supplementary Prospectuses**):

- (a) supplementary prospectus dated 2 July 2007; and
- (b) supplementary prospectus dated 18 July 2007.

This Supplementary Prospectus was lodged with the Australian Securities and Investments Commission (**ASIC**) on 23 July 2007. The ASIC does not take any responsibility for the contents of this Supplementary Prospectus.

This Supplementary Prospectus must be read together with the Prospectus and Prior Supplementary Prospectuses. If there is a conflict between the Prospectus, Prior Supplementary Prospectuses and this Supplementary Prospectus, this Supplementary Prospectus will prevail. Terms and abbreviations defined in the Prospectus have the same meaning in this Supplementary Prospectus.

This Supplementary Prospectus will be issued with the Prospectus and Prior Supplementary Prospectuses and may be accessed on the Internet at [www.asx.com.au](http://www.asx.com.au).

This document is important and should be read in its entirety.

**2. FURTHER DISCLOSURE**

This Supplementary Prospectus varies the Prospectus and Prior Supplementary Prospectuses by

- (a) replacing Section 4.2 with the following and updating the new Section, Section 4.6.4
- (b) adding to the table in Section 6.1 titled "Continuous Disclosure Obligations" the following additional announcements made to the ASX since the supplementary prospectus dated 18 July 2007 :

**4.2 Institutional Offer**

(a) **Fortress A\$10 Million Convertible Note Investment**

Fortress Credit Corporation (Australia) II Pty Ltd (**Fortress**), through a wholly owned subsidiary, has agreed to subscribe for a second ranked secured A\$10 million convertible note in the Company (**Fortress Convertible Note**). The Fortress Convertible Note carries a 6% coupon and a four-year term. The Fortress Convertible Note was executed on 22 June 2007 and is subject to shareholder approval. The A\$10 million will be available in two A\$1 million lots and four A\$2 million lots. The timing of each drawing under the Fortress Convertible Note will be in accordance with the schedule below, subject to the Company

meeting the conditions precedent set by Fortress, including the following relevant customer sign-up targets and the Company's Share price meeting minimum price thresholds.

<b>Conditions precedent to draw on Convertible Note Facility</b>	<b>Minimum Share price</b>	<b>Investment A\$</b>
Execution of the Fortress Convertible Note on 22 June 2007	Unconditional	1,000,000
20,000 Customers	Unconditional	1,000,000
40,000 Customers	Unconditional	2,000,000
60,000 Customers	\$1.05	2,000,000
80,000 Customers	\$1.20	2,000,000
100,000 Customers	\$1.40	2,000,000
<b>Total</b>		<b>10,000,000</b>

Share price calculated as the lower of (a) the 10 day historical volume weighted average price (**VWAP**) quoted on the ASX calculated from the date the Company meets the minimum customer number hurdle rates and (b) the closing price of Shares quoted on the ASX on the Business Day immediately preceding the date on which the Company proposes to issue notes.

The Fortress Convertible Note is convertible in accordance with the following terms:

<b>Advance</b>	<b>Conversion Price</b>
1 <sup>st</sup> Advancement of \$1M	<p>Share price calculated as the lower of:</p> <ul style="list-style-type: none"> <li>(a) the 10 day historical VWAP calculated from the date the Company meets the minimum customer number hurdle rates; and</li> <li>(b) the closing price of Shares quoted on the ASX on the Business Day immediately prior to the date on which the Company proposes to issue notes.</li> </ul> <p>The Share price calculated using the above methodology shall have a cap of \$0.75. Upon issue on 22 June 2007, this was calculated as \$0.64.</p>

2 <sup>nd</sup> Advancement of \$1M	<p>Share price calculated as the lower of:</p> <ul style="list-style-type: none"> <li>(a) the 10 day historical VWAP calculated from the date the Company meets the minimum customer number hurdle rates; and</li> <li>(b) the closing price of Shares quoted on the ASX on the Business Day immediately prior to the date on which the Company proposes to issue notes.</li> </ul> <p>The Share price calculated using the above methodology shall have a cap of \$0.75. Upon issue on 11 July 2007, this was calculated as \$0.64.</p>
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3 <sup>rd</sup> Advancement of \$2M	<p>Share price calculated as the lower of:</p> <ul style="list-style-type: none"> <li>(a) the 10 day historical VWAP calculated from the date the Company meets the minimum customer number hurdle rates; and</li> <li>(b) the closing price of Shares quoted on the ASX on the Business Day immediately prior to the date on which the Company proposes to issue notes.</li> </ul> <p>The Share price calculated using the above methodology shall have a cap of \$1.00. Upon issue on 20 July 2007, this was calculated as \$0.59.</p>
Remaining Advances	<p>Share price calculated as the lower of:</p> <ul style="list-style-type: none"> <li>(a) the 10 day historical VWAP calculated from the date the Company meets the minimum customer number hurdle rates; and</li> <li>(b) the closing price of Shares quoted on the ASX on the Business Day immediately prior to the date on which the Company proposes to issue notes.</li> </ul> <p>The Share price calculated using the above methodology shall have a collar of \$0.75 and a cap of \$1.00.</p>

If the Fortress Convertible Note is not converted, it shall be mandatorily repaid following the expiration of 4 years from the date of the first advance, being 22 June 2011.

In addition to the Shares, Fortress will receive 3,500,000 Options pursuant to an Option Deed dated 22 June 2007 (Option Deed) upon shareholder approval. The Options are convertible at the lower of \$0.75 and the 10 day VWAP on the Business Day immediately preceding the date of the Option Deed. The Options have an exercise period of 5 years from the date of the Option Deed. Further to the execution of the agreement on 22 June 2007, the conversion price is calculated at \$0.64.

The Convertible Note is secured by a second ranking fixed and floating charge. The Company has paid an establishment fee of \$500,000, with provision for a portion of this amount to be rebated to the Company in certain defined circumstances. If the Company has not made use of the Fortress Convertible Note by the second anniversary of the Fortress Convertible Note, it must immediately pay to Fortress a break fee of \$500,000.

(b) **Cornell Standby Equity Facility and Convertible Loan**

The Company has also secured a A\$10 million standby equity facility (**Cornell Equity Facility**) and US\$3.5m convertible loan (**Cornell Convertible Loan**) with U.S. based investment fund, Cornell Capital Partners, LP (**Cornell**).

Under the terms of the Cornell Equity Facility, the Company may at its discretion issue Shares to Cornell over the next 36 months up to a total of A\$10 million. The Company may place, subject to certain trading conditions, up to A\$250,000 of Shares in any 10 trading day period.

Shares issued to Cornell pursuant to the Cornell Equity Facility will be priced at 98% of the lowest daily VWAP of the Company's Shares traded over the 10 trading days prior to the issue of the Shares. The Company must apply for quotation of the Shares.

The Company is liable to pay the following fees to Cornell under the Cornell Equity Facility:

- (i) an expense allowance of \$20,000;
- (ii) an activation fee of \$250,000, which, at the Company's election, can be satisfied by the issue of Shares;
- (iii) an implementation fee of \$50,000, which, at the Company's election, can be satisfied by the issue of Shares; and
- (iv) an amount of \$25,000 in respect of Cornell's legal costs.

The Cornell Equity Facility will terminate upon the following events occurring:

- (i) on that date which is 36 months after the date of execution of the agreement, being 15 May 2010;
- (ii) by mutual agreement of the parties;

- (iii) by the Company notifying Cornell that it wishes to terminate the agreement; and
- (iv) Cornell may terminate the agreement if an event of default occurs.

An event of default referred to in (iv) includes standard events of default, such as:

- (i) the appointment of a receiver or administrator;
- (ii) any legal action being commenced, judicial order made or resolution passed for the liquidation of the Company or group;
- (iii) material non compliance by the Company with or the fact of material inaccuracy of any representation made by the Company;
- (iv) the suspension of the Shares from official quotation on ASX for an aggregate period exceeding 5 days; and
- (v) an event occurs which is likely to have a material adverse effect on the Company.

Cornell has also agreed to provide the Company with a US\$3.5 million Convertible Loan. The Cornell Convertible Loan is immediately available with a coupon of 9% and 3 year term. The Cornell Convertible Loan is convertible into Shares at Cornell's discretion and the Shares will be issued at an issue price of :

- (i) 130% of VWAP during the 5 trading days prior to the funding draw down date, being \$0.82134 at 29 June 2007 (**Funding Date**); or
- (ii) the lowest price per Share at which the Company issues Shares to any third party while there are any moneys outstanding under the Cornell Converting Loan.

In addition to the Shares to be issued to Cornell upon conversion of the Cornell Convertible Loan, the Company has agreed to grant to Cornell 1,200,000 non-transferable Options with an exercise period of 5 years from the Funding Date, and exercisable as follows:

- (i) series A: 400,000 Options each exercisable at \$0.71918;
- (ii) series B: 400,000 Options each exercisable at \$0.78456; and
- (iii) series C: 400,000 Options each exercisable at \$0.84994.

However, if, prior to the exercise of any of the Options referred to above, the Company issues Shares to any third party at a price less than the Option exercise price, the Option exercise price will be reduced to the same price per Share at which the Company issued the Shares to the third party.

The Loan is repayable on demand by Cornell, provided that Cornell will not make such a demand unless a "Default Event" occurs. A Default Event includes:

- (i) failure by the Company to pay any moneys in accordance with the agreement;
  - (ii) failure by the Company to perform any liability under the agreement or failure to rectify default within 14 days of notice from Cornell;
  - (iii) non-compliance with a representation or warranty made by the Company;
  - (iv) an event of default occurring under the Cornell Equity Facility; and
  - (v) an event occurs which has a material adverse effect on the Company.
- (c) Fortress Facility

Although, not forming part of the Institutional Offer, the Company notes that it recently announced that due diligence had been completed on the A\$100 million working capital facility to be provided by Fortress Investment Group LLC (**Fortress Facility**). The Fortress Facility, which is to be asset backed against accounts receivable and accrued revenue as they grow, has also received investment committee approval and is now in the formal documentation phase with a completion date target of early June.

The funds provided under the Fortress Facility will be used by the Company to fund the general working capital requirements of the Company.

Interest is payable at the rate determined by Fortress to be the average bid rate on the first day of the interest period on the Reuters Monitor System BBSY reference rate page for a term most closely approximating the interest period, plus a margin fee of 4.5%. The Fortress Facility must be repaid by that date which is 4 years from the date upon which all of the conditions precedent are satisfied.

Fortress has taken a fixed and floating charge over all of the Company's present and future assets and undertaking as security for the Fortress Facility.

No Shares will be issued under the Fortress Facility.

#### **4.6.4 General Effect on Proforma Balance Sheet and Capital Structure**

Since the date of the Prospectus, various conditions in the Fortress Convertible Note and Cornell Standby Equity Facility and Convertible Loan agreements have been calculated and set. The following original assumptions have been clarified as follows:

- (a) under the Cornell Standby Equity Facility, the advance of \$100,000 has been issued at a price of \$0.59878 through the allotment of 167,006 Shares;
- (b) under the Cornell Standby Equity Facility, a total of \$324,750 in expenses was previously assumed to be paid in cash. A portion totalling \$166,667 has been paid through the issue of Shares at \$0.67 or 248,757 Shares;

- (c) the conversion price of the 3,500,000 Options granted to Fortress as outlined in Section 4.2 has been set at \$0.64, being the 10 day VWAP of the Shares prior to the execution of the Fortress Convertible Note;
- (d) Section 4.6.4(c) has a resultant effect on calculating the embedded derivative liability and corresponding Other Financial Asset in accordance with AASB139 Financial Instruments: Recognition and Measurement;
- (e) The conversion price under the Cornel Convertible Loan as outlined in Section 4.2 has been set at \$0.82123, being 130% of VWAP during the 5 trading days prior to the funding draw down date; and
- (f) The exercise price of the non-transferable Options granted to Cornel has been set as follows:
  - series A: 400,000 Options each exercisable at \$0.71918;
  - series B: 400,000 Options each exercisable at \$0.78456; and
  - series C: 400,000 Options each exercisable at \$0.84994.
- (g) The conversion price under the Fortress Convertible Note as outlined in Section 4.2 has been set as follows:
  - at \$0.64 for 1<sup>st</sup> Advancement of \$1m issued on 22 June 2007;
  - at \$0.64 for 2<sup>nd</sup> Advancement of \$1m issued on 11 July 2007; and
  - at \$0.59 for 3<sup>rd</sup> Advancement of \$2m issued on 20 July 2007.

The main effects of the above items on the Capital Structure set out in 4.5 of the Prospectus and the Proforma Balance Sheets set out in Section 4.6.2 of the Prospectus are:

### **Capital Structure**

Assuming that the Company issues Shares under the Institutional Offer, the capital structure of the Company following completion of the Offer and the Institutional Offer based on the assumptions originally noted and revisions above and assuming full conversion of all facilities into Shares will be as set out below:



<b>Shares</b>	<b>Base Case</b>	<b>Scenario A</b>	<b>Scenario B</b>	<b>Scenario C</b>
Current Shares on issue	84,647,342	84,647,342	84,647,342	84,647,342
Shares offered pursuant to the Offer	20,000	20,000	20,000	20,000
Standby Equity Facility with Cornell Capital Partners	167,006	167,006	167,006	167,006
Expenses of Standby Equity Facility with Cornell Capital Partners paid through Shares	248,757	248,757	248,757	248,757
Convertible Note Facility with Cornell Capital Partners	5,134,131	5,134,131	5,134,131	5,134,131
Convertible Note Facility with Fortress	3,125,000	8,514,831	12,514,831	12,514,831
<b>Total</b>	<b>93,342,236</b>	<b>98,732,067</b>	<b>102,732,067</b>	<b>102,732,067</b>

### **Pro-forma Consolidated Balance Sheet**

The effect on the Pro-forma Consolidated Balance Sheet is summarised below:

<b>No conversion assumption Increase/(decrease)</b>	<b>Base Case</b>	<b>Scenario A</b>	<b>Scenario B</b>	<b>Scenario C</b>
Cash and cash equivalents	\$166,667	\$166,667	\$166,667	\$166,667
Other financial assets	(\$354,071)	(\$224,064)	(\$89,397)	(\$89,397)
Other financial liabilities	(\$264,674)	(\$134,667)	\$0	\$0
Total non - current liabilities	\$28,412	\$141,395	\$261,149	\$261,149
Issued capital	\$158,197	\$45,214	(\$74,540)	(\$74,540)
Reserves	(\$109,339)	(\$109,339)	(\$109,339)	(\$109,339)
Accumulated losses	\$0	\$0	\$0	\$0

<b>Full conversion assumption Increase/(decrease)</b>	<b>Base Case</b>	<b>Scenario A</b>	<b>Scenario B</b>	<b>Scenario C</b>
Cash and cash equivalents	\$166,667	\$166,667	\$166,667	\$166,667
Other financial assets	(\$354,071)	(\$224,064)	(\$89,397)	(\$89,397)
Other financial liabilities	(\$264,674)	(\$134,667)	\$0	\$0
Total non - current liabilities	\$0	\$0	\$0	\$0
Issued capital	\$158,197	\$45,214	(\$74,540)	(\$74,540)
Reserves	(\$109,339)	(\$109,339)	(\$109,339)	(\$109,339)
Accumulated losses	(\$28,412)	(\$141,395)	(\$261,149)	(\$261,149)

On completion of the Institutional Offer, 4,700,000 Options will be issued. If these Options are exercised, the Company may receive up to an additional \$3,181,472 prior to the expiry date of the Options, a decrease of \$227,128 from the amount stated in Prospectus.

### 6.1 Continuous Disclosure Obligations

<b>Date</b>	<b>Details</b>
23/07/2007	Appendix 3B
18/07/2007	Supplementary Disclosure Document

### 3. DIRECTORS' AUTHORISATION

This Supplementary Prospectus is issued by the Company and its issue has been authorised by a resolution of the Directors.

In accordance with Section 720 of the Corporations Act, each Director has consented to the lodgement of this Prospectus with the ASIC.



Signed for and on behalf of  
**AUSTRALIAN POWER AND GAS COMPANY LIMITED**  
 by Anne Harley

Note: All other details in relation to the terms of the Offers and other matters under the Prospectus remain unchanged.