



Guide to Applications for Electricity Industry and Gas Industry Licences

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- Procedures for Applications for Electricity Licences and Electricity Licence Transfers (November 2006)
- Guidance Notes for Applications for Gas Licences and the Transfer of Existing Gas Licences (November 2006)
- Procedures for Applications for Gas Licences and Gas Licence Transfers (November 2006)

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Contents

1. Introduction	5
1.1. About this guide	5
1.2. Assessment of licence applications	5
1.3. Legislative framework	6
2. Applying for a Licence	7
2.1. Who may apply for a licence	7
2.2. How to apply for a licence	7
2.3. Application fee	7
3. The Licensing Process	8
3.1. The assessment process	8
3.1.1. Timing of the application	8
3.1.2. Initial assessment of application	8
3.1.3. Consultation (publication of the licence application)	9
3.1.4. Commercial-in-confidence information	9
3.1.5. Submissions	9
3.1.6. Consideration of the application	10
3.1.7. Decision and notification	10
4. Content of Licence Applications	11
4.1.1. Information about the applicant and proposed activities	11
4.1.2. Technical capacity	11
4.1.3. Financial viability	12
4.1.4. Commission objectives	13
4.1.5. Fit and proper person	14
4.1.6. Commercial-in-confidence information	14
5. Variation, Transfer, And Revocation of Licences	15
5.1. Variation	15

5.2. Transfer	15
5.3. Revocation	15
6. Exemptions	17
7. Obligations Once Granted a Licence	18
7.1. Ongoing obligations	18
7.2. Annual licence fees	19
schedule 1 – General Information	20
Schedule 2 – Information about Technical Capacity	23
Schedule 3 – Information about Financial Viability	31
Schedule 4 – Fit and Proper Person	34
Schedule 5 – Statutory Declaration	36
Schedule 6 – Application for Licence Transfer	38

1. Introduction

1.1. About this guide

The Essential Services Commission (the commission) is the independent regulator established by the Victorian Government to regulate prescribed essential utility services, including the electricity and gas industries.

One of the commission's statutory functions is to administer energy licensing in Victoria under Division 3 of Part 2 of the [Electricity Industry Act 2000 \(Vic\)](#) and Division 2 of Part 2 of the [Gas Industry Act 2001 \(Vic\)](#).

Any person who engages in the following activities must either be licensed by the commission, or be exempted from the requirement to hold a licence by the Governor in Council:

Electricity industry activities	Gas industry activities
<ul style="list-style-type: none">• Generation of electricity for supply or sale• Transmission of electricity• Distribution or supply of electricity• Sale of electricity (either by retail or through the wholesale market)	<ul style="list-style-type: none">• Provision of services by means of a distribution pipeline• Sale of gas by retail

This guide provides information and guidance to licence applicants about our approach to assessing applications and the information required to assess applications. The guide also includes information on variation, transfer and revocation of licences.

1.2. Assessment of licence applications

In deciding whether to grant or refuse a licence application, the commission is bound by the provisions of the [Essential Services Commission Act 2001 \(Vic\)](#), the [Electricity Industry Act 2000 \(Vic\)](#) and/or the [Gas Industry Act 2001 \(Vic\)](#).

The commission will not grant a licence application unless it is satisfied that:

- the applicant has and will maintain the technical capacity to comply with the conditions of licence

- the applicant is financially viable and can be expected to continue to be so and
- the applicant is a fit and proper person to hold a Victorian electricity industry or gas industry licence.

In deciding whether to grant or refuse a licence application, the commission must have regard to its objectives under the [Essential Services Commission Act 2001 \(Vic\)](#), the [Electricity Industry Act 2000 \(Vic\)](#) and/or the [Gas Industry Act 2001 \(Vic\)](#).

Further information about these matters is provided in part 4 of this guide.

All applications are assessed on a case-by-case basis. In processing an application we may, at our discretion and where we consider it appropriate, request additional information or depart from the process described in this guide.

It is the applicant's responsibility to ensure that it provides accurate and relevant information and documentation. Applicants should not rely on us to search for or request information to support any application. Providing an accurate and complete application will ensure that the assessment process is efficient.

Applicants should note that this guide does not in any way detract from or amend any statutory or regulatory requirements.

1.3. Legislative framework

Prior to making an application, applicants should read and understand:

- the [Essential Services Commission Act 2001 \(Vic\)](#) (the ESC Act),
- the [Electricity Industry Act 2000 \(Vic\)](#) (the Electricity Industry Act), and/or
- the [Gas Industry Act 2001 \(Vic\)](#) (the Gas Industry Act) (together, the Industry Acts),
- other Codes and Guidelines that apply to licensees, such as the [Energy Retail Code](#) and the [Electricity Distribution Code](#).

All applicants must demonstrate that they have a detailed understanding of the legislation and regulatory instruments applicable to their proposed licensable activities.

This guide should not be relied upon as substitute for legal advice and should be read in conjunction with the above legislation and instruments. In the event of inconsistency between this guide, the relevant legislation and regulatory instruments, the legislative and regulatory requirements apply.

2. Applying for a licence

2.1. Who may apply for a licence

An application for a licence may be made by any legal person including individuals, incorporated associations and corporations.

Entities that are not a legal person (for example, an unincorporated joint venture) cannot apply for a licence.

2.2. How to apply for a licence

Applicants must submit two copies of the application — one electronic copy and one hard copy.

The electronic copy of the application including attachments should be emailed to the following address: licensing@esc.vic.gov.au

The hard copy of the application should be marked: 'Electricity Licence Application' or 'Gas Licence Application' and delivered to:

Manager, Licensing and Standards
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

2.3. Application fee

The Industry Acts provide that an application for a licence, or a transfer of licence, must be accompanied by the application fee, if any, as fixed by us. There is currently no application or transfer fee.

3. The licensing process

3.1. The assessment process

There is no statutory timeframe to process a licence application. The time that we will take to process an application is usually from eight to ten weeks **once the application is complete**. This includes the time taken for public advertising and review of submissions. It is important to note that assessment and decision timeframes can be affected by the details and circumstances of the application, the quality and standard of the material provided, and the number of submissions received in relation to the application.

Applications will be assessed on a case-by-case basis having regard to the requirements of the relevant legislation. We may engage external consultants (for example accountants or lawyers) to assist in assessing the information provided to us.

The type of information that is usually required to be included in an application is set out in part 4 (Content of licence applications) and schedules 1 to 4. While we generally interact with applicants prior to and during the application process to provide guidance and feedback, it is the applicant's responsibility to provide us with accurate, truthful and relevant information and documentation.

We also encourage applicants to consult with other relevant entities including the Australian Energy Market Operator, Energy Safe Victoria, licensed distributors, the Energy and Water Ombudsman (Victoria), and the Department of Health and Human Services.

3.1.1. Timing of the application

Applicants should ensure they provide all relevant information and material to the commission to allow sufficient time for the application to be assessed.

Applicants should apply for a licence once they have a firm plan to commence carrying out the proposed activity and are in a position to demonstrate that they meet the relevant criteria for being granted a licence. Applicants should confirm and be able to demonstrate that they have an ability to commence operation within a specific and reasonable timeframe should a licence be granted.

3.1.2. Initial assessment of application

When we receive an application, we will conduct an initial review of the application for completeness. Once this review is complete, we will write to the applicant if further information or material is necessary.

Please note that it is the applicant's responsibility to ensure that it provides us with accurate and relevant material. Applicants should not rely on us to search for or request information to support any application. Providing an accurate and complete application will ensure that the assessment process is efficient.

3.1.3. Consultation (publication of the licence application)

We are required to publish a notice of a licence application in a daily newspaper circulating in Victoria, and to invite interested persons to make submissions in respect of the application.¹

A copy of the application will also be published on our website.

We will publish notice of an application once we are satisfied that it is complete.

The Industry Acts do not prescribe a period for submissions. We will usually provide four weeks for submissions after notice of the application is published.

3.1.4. Commercial-in-confidence information

To fully inform the public about the licence application, we prefer all information provided by the applicant to be made publicly available.

However, publication of some sections of the application can be restricted if warranted for commercial-in-confidence reasons. Any information submitted on a commercial-in-confidence basis should be attached as schedules to the application and be marked as commercial-in-confidence. Applicants should also provide an explanation as to why the information is marked as commercial-in-confidence. Applicants should include clear cross-references, identifying the section to which the commercial-in-confidence information relates. Please note that we are not responsible for the identification of commercial-in-confidence information.

Where we consider that information has been inappropriately marked as commercial-in-confidence, we will discuss this with the applicant.

3.1.5. Submissions

We accept submissions from all interested persons. An interested person can include industry bodies, regulators, private sector operators, community groups and individual consumers.

All submissions received, except those that are commercial-in-confidence, are published on our website. Submissions are published in accordance with our [submissions policy](#).

¹ Section 19(6) of the Electricity Industry Act 2000 and section 26(2) of the Gas Industry Act 2001.

Where submissions are made, we will notify the applicant in writing and provide copies of any published submissions and summaries of any unpublished submissions. The applicant will be provided with an opportunity to respond to the submissions in writing.

3.1.6. Consideration of the application

We will consider the application following the submission period and the receipt of any response from the applicant in relation to the submissions.

In doing so, we consider all relevant material, including all material provided by an applicant in support of its application, any submissions made by interested persons and any responses by the applicant.

We may take into account material obtained from other sources and may seek advice from external consultants and others in relation to any relevant matters, including to review the accuracy and reliability of information provided by an applicant. An applicant will be given an opportunity to respond to any adverse comments made by any consultants or information derived from external sources.

3.1.7. Decision and notification

Applicants will be notified in writing of our decision to grant or refuse an application and the decision will be posted on our website. Those who have made submissions will also be notified of our decision.

We will also publish any decision to grant a licence in the Victorian Government Gazette.²

In the event of a refusal to grant a licence, we will provide the applicant with our reasons for the refusal.³ While we will generally publish our decision to refuse an application, we will not generally publish our reasons for refusing the application.

Licences are issued subject to such conditions as are decided by us.⁴ A copy of current licences can be found on our [website](#). Where we propose to include a special condition in an applicant's licence, we will discuss this with the applicant prior to making our decision.

² Section 30(a) of the Electricity Industry Act 2000 and section 39(a) of the Gas Industry Act 2001.

³ Section 19(8) of the Electricity Industry Act 2000 and section 26(4) of the Gas Industry Act 2001.

⁴ See section 20(2) of the Electricity Industry Act 2000 and section 28(2) of the Gas Industry Act 2001.

4. Content of licence applications

We may grant or refuse a licence application for any reason we consider appropriate, having regard to our objectives under the [Electricity Industry Act](#) and/or [Gas Industry Act](#) and the [ESC Act](#).⁵

Consistent with our objectives, an applicant's technical capacity and financial viability are central to the consideration of a licence application. We will also consider whether an applicant is a fit and proper person to hold a licence.

It is incumbent on the applicant to provide sufficient information to enable the commission to understand the activities it is proposing to undertake. Applicants must also provide evidence to show that it can meet the above criteria. This may include independent verification that the applicant has the technical capacity to comply with the conditions of the licence and all applicable regulatory requirements, and is financially capable of commencing and sustaining the relevant licensable activity.

It is the applicant's responsibility to ensure that it provides us with accurate and relevant material. Applicants should not rely on us to search for or request information to support any application.

All applications are assessed on a case-by-case basis. We may, at our discretion and where we consider it appropriate, request additional information to that which is identified in this Guide.

4.1.1 Information about the applicant and proposed activities

It is important that applicants provide sufficient detail to allow us to understand who they are, the activity or activities proposed to be undertaken, and the third parties involved with those activities.

Further information is provided in schedule 1.

4.1.2 Technical capacity

Our assessment of technical capacity falls within two broad categories:

- the capacity to operate and manage the relevant business, and
- the capacity to comply with the applicable regulatory requirements.

⁵ Section 19(1) of the Electricity Industry Act 2000 and section 26 of the Gas Industry Act 2001.

The applicant must demonstrate that it can satisfy these requirements, and will do so for the duration of any licence. The applicant is required to provide supporting documentation as evidence, amongst other things, that demonstrates that:

- it has the business skills, knowledge, personnel, systems and ability to operate the relevant business,
- it has the capacity to manage risk and to operate an effective and functional risk management and compliance system consistent with the relevant Australian Standards, and
- it has the capacity to comply with all relevant regulatory requirements.

If an applicant intends to meet any material aspect of the technical capacity requirements by the use of contractors (including contracts with related entities), it must provide copies of all contracts in their final form.

Applicants should be aware that it is not acceptable to state that they cannot provide such contracts on the basis that they are 'confidential'. When entering into any such contract, an applicant should ensure that the contract can be produced to the commission. We will treat the contents of such contracts as confidential (refer to 3.1.4 above).

In considering 'materiality', the number of different contracts will be considered and any group of like contracts will be taken together. However, it remains at our discretion which contracts an applicant needs to provide.

Depending on the nature of the contractual relationship and the services being performed by entities other than the applicant, it may be necessary for these other entities to also be licensed in accordance with section 16 of the [Electricity Industry Act](#) or section 22 of the [Gas Industry Act](#). For example, if a generator engages another entity to sell its electricity through the National Electricity Market, then the other entity may require a licence to sell electricity.

The information requirements for establishing technical capacity are discussed in schedule 2.

4.1.3 Financial viability

We are required to have regard to financial viability, and we generally require an applicant to demonstrate that it will have the financial resources to commence and sustainably perform the relevant licensable activity.

Our assessment may be based on a combination of information sources. The key areas of enquiry and documentary evidence that we may need to examine in relation to a particular applicant will depend largely on the individual circumstances of the applicant (including, for example, the type of

licence sought and corporate structure of the applicant). For a list of key factors which the commission may examine refer to schedule 3.

In considering financial viability, we do so for our own purposes and our conclusion is not to be relied upon for any purpose for any other person.

4.1.4 Commission objectives

In deciding whether to grant or refuse a licence application, we must consider our objectives under the [Electricity Industry Act](#) and/or [Gas Industry Act](#) and the [ESC Act](#).

Our objective under the ESC Act, when performing our functions and exercising our powers, is to promote the long term interests of Victorian consumers. In seeking to achieve this objective, we must have regard to the price quality and reliability of essential services and the matters set out in section 8A to the extent they are relevant. These matters are:

- (a) efficiency in the industry and incentives for long term investment,
- (b) the financial viability of the industry,
- (c) the degree of, and scope for competition within the industry, including countervailing market power and information asymmetries,
- (d) the relevant health, safety, environmental and social legislation applying to the industry
- (e) the benefits and costs of regulation (including externalities and the gains from competition and efficiency) for –
 - (i) consumers and users of products or services (including low income and vulnerable consumers),
 - (ii) regulated entities
- (f) consistency in regulation between States and on a national basis,
- (g) any matters specified in the empowering instrument.

Our objectives under the Industry Acts are:

- (a) to the extent that it is practicable to do so, promote a consistent regulatory approach between the electricity and the gas industry,
- (b) to promote the development of full retail competition,
- (c) to promote protections for customers, including in relation to assisting customers who are facing payment difficulties.

Applicants should consider our objectives and explain how the granting of a licence to the applicant would be consistent with those objectives, or address any material issues the application raises with respect to the objectives.

4.1.5 Fit and proper person

In deciding whether to grant or refuse a licence application, we will consider whether the applicant is a fit and proper person to hold a Victorian electricity or gas industry licence.

The concept of a 'fit and proper person' is established by common law and takes its meaning from its context, from the activities in which the person is or will be engaged, and the ends to be served by those activities.

In considering whether an applicant is a fit and proper person, we will have regard to the applicant's honesty, integrity and reputation. These are relevant factors as they can inform an assessment of the likelihood of future conduct.

In considering an applicant's suitability to hold an energy licence, we will also consider the conduct of directors, office holders or any person with significant managerial duties or influence in the applicant. We may also consider the conduct of related bodies corporate or entities that can exert control over the applicant.

We require applicants to disclose any conduct or event relating to the following broad areas:

- (a) bankruptcy and insolvency
- (b) disqualification from managing a company
- (c) criminal prosecutions
- (d) prosecutions or enforcement action taken under relevant laws
- (e) refused licence applications or licences that have been restricted, suspended or revoked
- (f) material failures to comply with regulatory requirements
- (g) enforcement action.

We require applicants to answer the questions set out in schedule 4 with their application.

Disclosure of one or more matters will not automatically lead us to conclude that the applicant is not fit and proper. We will consider a number of factors when a disclosure is made, such as the seriousness of the matter and the impact on consumers, the egregiousness of the conduct (for example, where the conduct involved dishonesty or a deliberate attempt to mislead us, this will be viewed more seriously), when the conduct occurred and the applicant's subsequent conduct.

4.1.6 Commercial-in-confidence information

See paragraph 3.1.4 above.

5. Variation, transfer, and revocation of licences

5.1. Variation

A licence may be varied:⁶

- in accordance with the procedures set out in the conditions of the licence, or
- by agreement between us and the licensee or
- by written notice from us after giving the licensee reasonable notice of the proposed variation and allowing the licensee an opportunity to respond to the proposed variation.

Where a licensee requests that we vary its licence or licence conditions, the licensee should provide sufficient information to enable us to assess the impact and significance of the variation to the current licensing arrangements.

5.2. Transfer

After a licence is granted, a licensee may apply to us to approve the transfer of its licence to another legal person.⁷

Applications must be in writing, and must include written confirmation from the transferee setting out its formal consent to the transfer.

The licensee must obtain and provide from the transferee all relevant information and necessary declarations set out in this guide and to follow the application procedure as if applying for a new licence.

In addition to a statutory declaration about the accuracy of the information provided (see schedule 5), a transfer of licence application must also be accompanied by a declaration in the form set out at schedule 6 of this guide.

5.3. Revocation

A licence may be revoked in accordance with the procedures specified in the licence conditions.⁸

⁶ See sections 29(1) and (2) and 29A of the Electricity Industry Act and sections 38(1) and (2) and 38A of the Gas Industry Act.

⁷ See section 31 of the Electricity Industry Act and section 40 of the Gas Industry Act.

⁸ See section 29(3) of the Electricity Industry Act and section 38(3) of the Gas Industry Act.

Generally, licence conditions provide that we may revoke a licence:

- at any time at the request of or with the consent of the licensee or
- in some circumstances, without the consent of the licensee where it is consistent with our objectives.

Circumstances where we can revoke a licence without the licensee's consent include:

- where the licensee fails to comply with an undertaking or a final enforcement order
- where the licensee breaches any condition of its licence
- where information provided to us, including in the licence application, is found to be materially false or misleading
- the licensee's financial viability or technical capacity is such that we consider the licensee would be unable to satisfactorily meet its obligations under the licence
- the licensee fails to comply with a decision, direction, determination or arrangement made by or agreed with us, the Australian Energy Market Operator or the relevant minister
- where a petition or other application is presented or resolution passed for the winding up, liquidation or dissolution of the licensee, or notice of intention to propose such as resolution is given or the licensee enters into a scheme of arrangement or compromise or deed of company arrangement with any of its creditors
- an administrator, receiver or manager is appointed to any of the licensee's property
- the licensee ceases to carry on business or stops or wrongfully suspends payment to any of its creditors or states its intention to do so.

If we decide to revoke a licence without consent, we will issue a notice to the licensee that specifies the basis for the revocation of the licence and the date the revocation will take effect. We may withdraw the notice if the licensee remedies the basis for the revocation.

6. Exemptions

Section 17 of the [Electricity Industry Act](#) and section 24 of the [Gas Industry Act](#) provide that a person may be exempted from the requirement to obtain a licence. Exemptions are made by an Order made by the Governor in Council.

Exemptions may be of individual or general application.

A person may be exempted from the requirement to obtain a licence for electricity sale, supply or generation activities if they meet the requirements of the [General Exemption Order](#) made on 15 November 2017 and amended on 30 May 2019. The General Exemption Order only applies to electricity activities, not the sale or supply of gas.

Persons who are exempted from holding a licence under the General Exemption Order have obligations which include:

- registering their exemption with us (in most circumstances),⁹
- becoming a member of the Energy and Water Ombudsman (Victoria), and
- complying with relevant sections of the Energy Retail Code, Electricity Distribution Code and General Exemption Order.

If you think you are exempted from holding a licence you should read the General Exemption Order to understand what obligations apply to you.

We have more information about exemptions on our [website](#) and in our [Registration Guideline for Exempt Persons](#).

⁹ Unless the exemption is deemed, in which case it automatically applies and does not need to be registered with us.

7. Obligations once granted a licence

7.1. Ongoing obligations

Licences are issued subject to such conditions as are deemed to apply under the Industry Acts and those that are decided by the commission.

A copy of each licence we have issued can be found on [our website](#).

Energy licences require the licensee to comply with applicable Codes, Guidelines or other instruments issued by us, as well as other relevant requirements including legislation overseen by Energy Safe Victoria and national instruments such as the National Electricity Rules. These include, but are not limited to:

- Energy Retail Code
- Electricity Distribution Code
- Compliance and Performance Reporting Guideline
- Audit Guideline for Energy Businesses
- Code of Conduct for Marketing Retail Energy
- Electricity Customer Metering Code
- Electricity Customer Transfer Code
- Electricity System Code
- Gas Distribution System Code
- Connection of Embedded Generation Guideline
- Provision of Services by Distributors Guideline
- Connection and User of System Agreements Guideline.

Licences also, depending on the licence type, generally require the licensee to maintain ongoing technical capacity and financial viability.

Licensees must notify us:

- of any breach by it of the conditions of their licenses as soon as reasonably practicable after becoming aware of the breach
- where there is a change of control of the licensee (for example, where the licensee is purchased by another company).

7.2. Annual licence fees

Holding an electricity or gas licence incurs annual licence fees. These fees and charges are determined by the Assistant Treasurer, in consultation with the Minister for Energy, Environment and Climate Change, having regard to the total costs and expenses incurred by us in the exercise of our powers for or in connection with the performance of our functions and the achievement of our objectives in relation to the electricity and/or gas industry.¹⁰

Each annual determination by the Assistant Treasurer specifies the various licence fees apportioned annually to each of the licence categories within the electricity or gas sector.

For electricity generation licences, the annual fees are dependent on the size of the facility. The 2017-2018 licence fees for generation facilities were:

<200MW - \$3,300.00

200-999MW - \$9,900.00

>1,000MW - \$16,500

For electricity and gas retail licences, the 2017-18 base fee that applies to all licensees was \$8,250, regardless of customer numbers.

The licence fees determined by the Assistant Treasurer are administered by us. At annual intervals, we, on behalf of the Assistant Treasurer, will send to each licensee, depending on the licence category, an invoice for the licence fee in respect of the preceding financial period ending on 30 June. The invoice will contain the licensee's details, the amount payable and the payment terms and conditions.

Licence fees are to be paid on receipt of an invoice via one of the payment options set out in the invoice.

¹⁰ See section 22 of the Electricity Industry Act 2000 and section 30 of the Gas Industry Act 2001.

Schedule 1 – General information

The commission does not have a licence application form. Set out below is a summary of the information required by the commission in assessing an application. The information listed below is not an exhaustive list and the commission may require an applicant to submit additional information.

Information checklist	Y/N
<i>The applicant</i>	
Name of the applicant	
Business name/s if different to the applicant's legal name	
ABN and ACN	
Registered business address and postal address (if different)	
Contact person (name, title and contact details)	
Incorporation details (including a copy of the applicant's Certificate of Registration, Memorandum of Association and Articles) If the applicant is domiciled outside Australia, certified documentation of the registration of the business or company and the constitution/rules from the country where the entity is registered must be provided Additional information concerning corporate regulation in the foreign country may be required	
If the applicant is an entity formed pursuant to a partnership, include a copy of the partnership agreement	
If the applicant is a trust, a copy of the trust deed	
If the applicant is a special purpose or 'joint venture' company, include a copy of	

any joint venture agreement, shareholders agreement and/or associated agreements	
If a non-public company, details of the names and addresses of shareholders, unit holders, beneficiaries or others having an interest in the entity	
Diagram of corporate or other structure (including details of any parent and related companies within the meaning of the Corporations Act)	
Diagram of organisational structure (including composition of the board, management and other key personnel)	
A short summary of the experience for each of the key personnel, the applicant and related parties	
A summary of all contracts and agreements entered into by the applicant that are relevant to the application (including details of any outsourcing arrangements, supplier or customer contracts)	
If the applicant proposes to undertake some or most of the operational aspect of a licence, if issued, through a service company, copies of executed or proposed agreements and the relationship with the service provider must be provided	
<i>The application</i>	
Type of licence sought	
Date from which the licence is sought	
Nature and scope of operations for which the licence is sought	
Details of current or former licences or authorisations held in this and/or other jurisdictions	

Details of licences held by associates of the applicant ¹¹	
<p>Details of any non-standard licence conditions and the nature and reasons for seeking the condition/s</p> <p>The applicant should also provide a draft outline of the proposed non-standard condition/s</p>	
A statement in the public component addressing whether the applicant is a fit and proper person	
A statement in the public component addressing the commission’s objectives under the Essential Services Commission Act 2001, Electricity Industry Act 2000 and Gas Industry Act 2001, as applicable	

¹¹ The term “associates” includes subsidiaries, parent companies and other related parties of the applicant as defined in the Corporations Act.

Schedule 2 – Information about technical capacity

Information checklist	Y/N
The application should include a statement within the public component of the application that the applicant has the expertise, knowledge and skill base to operate the proposed business	
In addition, the application should include (as applicable):	
(a) organisational chart of key personnel	
(b) a summary of the skills and experience of the directors, senior managers and other key personnel	
(c) business model plans	
(d) evidence that the applicant has the capacity to comply with the licence conditions, laws, codes and guidelines relevant to its application	
(e) contracts with external providers, including customer and supply contracts and outsourcing arrangements	
(f) if the applicant is to rely on another entity to provide staff and resources, a summary of the relationship between the applicant and this entity, including any formal agreements to provide services, and a summary of this other entity's experience in and knowledge of the industry, and technical capacity to meet the conditions of the licence	
(g) details and copies of internal frameworks, policies and procedures, including risk management policies, governance policies and compliance policies	
(h) details and copies of other relevant frameworks, policies and procedures – such as life support policies, financial hardship policy,	

privacy policies, document retention policies, and complaints register and procedures	
(i) a compliance register which identifies (i) key regulatory obligations, (ii) the source of each obligation, (iii) the key actions to be taken to ensure compliance, and (iv) the principal personnel responsible for ensuring compliance	
(j) evidence of registration as an intending participant and/or discussions with the Australian Energy Market Operator about becoming a Registered Participant to participate in the National Electricity Market and/or become a Gas Supply Hub Member	
(k) Australian Financial Services Licence, if applicable	
(l) confirmation that the applicant has liaised with Energy Safe Victoria	
(m) statements from industry bodies, including the Energy and Water Ombudsman (Victoria) and other regulators ¹²	
(n) industry submissions and results of any research supporting the application	
<i>Generation, transmission and distribution licence applications</i>	
Confirmation that all planning and environmental approvals have been completed	
Confirmation that all land access arrangements are in place	
Evidence that the applicant has agreed generator performance standards with the Australian Energy Market Operator (generators)	
Copies of all relevant contracts covering, for example, construction, connection and	

¹² Generators are not required to join the Energy and Water Ombudsman (Victoria).

network services, operation and maintenance services, and asset management services	
Confirmation that the applicant is a declared transmission system operator (where required), or has entered into discussions with the Department of Environment, Land, Water and Planning in relation to making an application to be declared (transmission)	
<i>Wholesale (electricity)</i>	
Copies of relevant contracts, including for appointing the applicant as intermediary for the purposes of bidding electricity into the wholesale market	
Confirmation that the applicant is registered as an Intending Participant, or will register as a Market Participant, with the Australian Energy Market Operator	
Confirmation that the applicant has (or is capable of acquiring) the relevant expertise, resources, systems and risk management systems to sell electricity through the wholesale market	
<i>Retail (electricity and gas)</i>	
Whether the applicant intends to retail to either <40 MWh in a year (domestic/small business customers), 40-160MWh in a year (medium businesses) and/or >160MWh in a year (large businesses)	
Details of whether the applicant has entered into an arrangement with a licensed electricity generator gas producer or re-allocation agreement to minimise exposure in the wholesale market	
Applicants must provide information on their capacity to operate the proposed retail business and to comply with regulatory requirements, including that they have documented procedures, processes, practices and staff training in place to do this For example, staff involved in the marketing of electricity or gas to new or potential customers must be appropriately trained in the relevant obligations Capacity to operate a business includes:	

- managing supplier contracts
- managing customer contracts accurately and securely
- customer account establishment and management
- customer service provision at least to the standards specified in the relevant codes and guidelines
- managing and undertaking customer billing and collection
- maintenance of appropriate management, governance and reporting systems consistent with codes and guidelines and any applicable Australian Standards.

Capacity to comply with regulatory requirements includes:

- provision of information to distributors
- meter reading
- provision of information to customers
- privacy and confidentiality management
- customer information management system
- management and compliance systems
- appropriate records management systems.

Further information on these requirements is set out below.

Manage supplier contracts

Applicants should demonstrate their ability to successfully manage supplier contracts. This includes the capacity to:

- enter supply contracts for the purchase of energy or financial arrangements to hedge exposure to the wholesale market
- account for and settle energy purchases and/or network service charges and
- manage risk by having contingency arrangements and to establish processes to minimise any financial exposure.

Manage customer contracts

Applicants should demonstrate that they can properly manage customer contracts. This includes ensuring that the terms and conditions of proposed customer contracts will be in accordance with all relevant codes and guidelines:

- where contracts with categories of customers differ from standards established under the various codes, clear statements of the differences are to be provided to customers
- applicants should note that there is an obligation to maintain accurate data on a website including the terms and conditions of contracts, exit arrangements and other relevant information, and
- terms and conditions of proposed customer contracts must clearly and accurately set out the customers' and retailers' rights and obligations and comply with the requirements of the Energy Retail Code and the Australian Consumer Law.

Customer account establishment and management

Clear processes for establishing and managing customer accounts are required.

Key aspects include:

- (a) the capacity to legally perform creditworthiness checks,
- (b) account establishment on an appropriate customer information system and consistency with the Privacy Act 1988 (Cth) and the Australian Privacy Principles,
- (c) the ability to maintain accurate and up to date records of customers' account histories, and
- (d) established and precise protocols to undertake the closure of customer accounts (on request of a customer), including the ability of a retailer to send a final bill to customers within a reasonable period after receiving customer advice of the transfer or termination of contract.

Customer service

The ability to ensure a consistent and high level of service to customers is crucial, including providing evidence to demonstrate that an applicant can operate and sustain an electricity or gas business. Key aspects of successful customer service provision and account management include:

- (a) a call centre to handle telephone calls from customers (and potential customers), including matters involving, amongst other things, account and billing issues and enquiries and the accurate recording of all interaction and exchanges with customers. Note that if the applicant

- contracts out the call centre services, then the commission must be provided with a copy of the contract
- (b) the capacity to record all enquiries and issues overseen by the call centre
 - (c) the capacity to handle customer correspondence by letter, email or other means
 - (d) the capacity to collect information for review and performance measurement purposes
 - (e) membership and participation in the Energy and Water Ombudsman (Victoria) (EWOV) or another dispute resolution scheme approved by the commission, and
 - (f) the capacity to handle complaints and resolve disputes (refer to AS/NZS 10002:2014). The applicant must also demonstrate how disputes are managed within the corporate structure if they escalate, including escalation by a customer to EWOV.

Billing and collection

Applicants will be required to demonstrate that they are able to manage all aspects of the customer billing and collection processes. Key aspects of this include the demonstrated capacity to undertake:

- (a) the provision of billing options for customers
- (b) the generation of cyclical bills from meter readings or estimations
- (c) interaction with distributors and the Australian Energy Market Operator
- (d) printing and dispatch of bills to customers consistent with requirements of the Energy Retail Code
- (e) printing and dispatch of payment reminder notices and disconnection warning notices that comply with the requirements of the Energy Retail Code
- (f) receipting of payments received and management of late payments
- (g) payment difficulties assistance in accordance with the minimum standards detailed in the Energy Retail Code
- (h) disconnection and reconnection of supply, and
- (i) processes for recovering unpaid debts.

<p><i>Appropriate management systems</i></p> <p>Applicants must demonstrate that they have established appropriate financial, operational and administrative systems, including maintenance of accounting requirements commensurate, at a minimum, with the Australian Accounting Standards</p>	
<p><i>Meter reading</i></p> <p>The applicant must arrange for the appointment of accredited meter reading agents</p>	
<p><i>Provision of information to customers</i></p> <p>Information on service offerings to relevant customers must be in line with the Energy Retail Code and should detail:</p> <ul style="list-style-type: none"> • customer obligations • retailer obligations • pricing information and options • a customer charter (containing minimum service standards) • contract terms • meter reading schedule and/or estimation arrangements • details of billing (billing period, how bills are issued, contents of bills, basis of bills) • bill error handling and billing dispute procedures • payment (terms of payment, methods of payment, advance payment, late payment, instalments and concessions) • termination of supply (procedure) • reconnection of supply (supplier and customer obligations, time to reconnect and charges). <p>Information to customers about their entitlements under Part 3 of the Energy Retail Code, including the applicant’s proposed financial hardship policy</p>	
<p><i>Privacy and confidentiality management</i></p> <p>Applicants must demonstrate their capacity to maintain confidentiality of customer data and to comply with relevant Commonwealth and Victorian privacy legislation. This is amplified in the relevant provisions of the Energy Retail Code, the Electricity</p>	

Distribution Code, the Code of Conduct for Marketing Retail Energy in Victoria and all applicable guidelines issued by the commission

Customer information management system

A customer information system should be able to handle data and communication required for reporting to the commission and licensed electricity distributors. As a minimum, this system should include the following information:

- customer contact details (including name, supply address, billing address, phone number and any other relevant details)
- contract terms – prices and payment terms
- payment history (7 years)
- record of complaints
- consumption history
- billing history
- previous suppliers
- contact notes (record of each customer call)
- requests for no marketing information.

Management and compliance systems

Licence holders are expected to have a high commitment toward the overarching management of risk, governance and compliance. The commission will require evidence of systems relating to corporate governance, risk management and compliance with the relevant Australian Standards. This will facilitate compliance testing, reviews and audits as required by the commission and as specified in licences

Schedule 3 – Information about financial viability

Information checklist	Y/N
<i>Public component</i>	
The applicant must provide a statement within the public component of the application that the applicant has the financial resources to commence and sustainably perform the relevant licensable activities	
<i>Commercial-in-confidence</i>	
The applicant must provide a dedicated section (commercial-in-confidence) that provides the documentary evidence and support for the applicant's position that it has sufficient financial resources or access to such resources to sustain a viable business in the electricity and/or gas industry	
This section should include the following (where relevant):	
(a) current balance sheet and financial data	
(b) significant contracts	
(c) annual report	
(d) Standard & Poor's or other acceptable rating	
(e) statements from internal/external auditors	
(f) statements from consultants, including accountants and legal advisors	
(g) statement of assets and liabilities	
(h) guarantees in place	
(i) shareholder register	

(j) statements from bank/financiers, shareholders, the board or parent company

(k) a business plan covering five years for sale (retail) licence applications and for the expected life of the relevant infrastructure for other types of applications (e.g. transmission, distribution, generation)

The business plan must address the rationale supporting the applicant's case that it meets the financial viability criterion, and an assurance by the applicant that it has sufficient financial resources to sustain its operations. For example, it should provide information on (as applicable):

- current valuations of the assets that will be used in undertaking the licensed activity
- all sources of revenues from the licensed activity
- all costs involved in undertaking the licensed activity, including:
 - the cost of meeting any prudential requirements
 - the cost of capital/debt
 - the cost to acquire and serve customers
 - the cost of meeting licence obligations.

Where revenues and/or costs are not fixed by contract, the business plan must include an explanation of the basis of the figures used, and include appropriate sensitivity analyses for such variables

Where more than one activity, for example generation and transmission is to be covered by the licence, financial information must be supplied separately for each licenced activity

(l) a financial model that supports the business plan.

The applicant should provide a statutory declaration by an officer of the company, disclosing:

- any material change in the financial position of the licence applicant that has occurred since the end of last financial year for which audited

accounts are provided

- any likely changes in the structure, operation or financing of the company or the licensed activity that could materially affect its financial viability.

Schedule 4 – Fit and proper person

1. Have any directors of the applicant or of any entity that can exert control over the applicant:

- (a) been declared bankrupt
- (b) had their affairs placed under administration
- (c) been disqualified from managing a company.

If yes, provide details:

2. Have any directors of the applicant, directors of any entity that can exert control over the applicant or any person with significant managerial responsibility or influence on the applicant been subject to:

- (m) any debt judgments, or
- (n) insolvency proceedings (including any administration, liquidation or receivership in connection with the affairs of a company)?

If yes, provide details:

3. Have any directors of the applicant, directors of any entity that can exert control over the applicant or any person with significant managerial responsibility or influence on the applicant been charged with fraud, theft or any other criminal offence?

If yes, provide details:

4. Has the applicant, any directors of the applicant, any related body corporate, or any person with significant managerial responsibility or influence on the applicant been involved in any material breaches of obligations regulated by the Essential Services Commission?

If yes, provide details:

5. Has the applicant, any directors of the applicant, directors of any entity that can exert control over the applicant or any person with significant managerial responsibility or influence on the applicant been prosecuted for any offences or had any enforcement action taken under any state, territory, Commonwealth or foreign legislation (including, but limited to, the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), or the Australian Securities and Investments Commission Act 2001 (Cth))?

If yes, provide details:

6. Has the applicant, any related body corporate or any person with significant managerial responsibility or influence on the applicant, been refused a licence or authorisation, or had restricted, suspended or revoked any such licence?

If yes, provide details:

Schedule 5 – Statutory declaration

Applicants should check that their statutory declaration is made in accordance with the requirements of the [Oaths and Affirmations Act 2018](#).

This form of statutory declaration is current as at 1 May 2019 (see Schedule 3, [Oaths and Affirmations \(Affidavits, Statutory Declarations and Certifications\) Regulations 2018](#)).

I, *[name, address and occupation of person making the statutory declaration]*, make the following statutory declaration under the **Oaths and Affirmations Act 2018**:

[insert statement to be declared using numbered paragraphs]

- 1.
- 2.

I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.

.....
[signature of person making this statutory declaration in the presence of the authorised statutory declaration witness]

Declared at *[place]* in the State of Victoria
on *[date]*

I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration:

.....
[signature of authorised statutory declaration witness]

on *[date]*

[full name and personal or professional address of authorised statutory declaration witness in legible writing, typing or stamp]

[qualification as an authorised statutory declaration witness]

A person authorised under section 30(2) of the **Oaths and Affirmations Act 2018** to witness the signing of a statutory declaration.

****I confirm that reasonable modifications were used in preparing this statutory declaration and that the contents of this statutory declaration were read to the person making the statutory declaration in a way that was appropriate to the person's circumstances.***

.....
[signature of authorised statutory declaration witness]

*delete if not applicable

Schedule 6 – Application for licence Transfer

In addition to a Statutory Declaration, a transfer of licence application must also be accompanied by a declaration in the form set out below:

Transfer licence

Section 31 of the Electricity Industry Act 2000 or section 40 of the Gas Industry Act 2001

Upon the approval of the Essential Services Commission, the Transferor transfers to the Transferee the estate and interest in the Licence described for the consideration expressed.

Date of the approval of the Essential Services Commission, the day of 20...

Licence:

Consideration (\$)

Transferor:

Transferee:

Date:

Execution and attestation

Transferor:

Transferee:

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