

AGLA Vic Hydro Assets Pty Limited

Generation & wholesale licence application

March 2022





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Introduction

AGL Energy Limited (**AGL Energy**) is a leading integrated essential service provider, with a proud 184-year history of innovation and a passionate belief in progress – human and technological. We deliver 4.5 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. We operate Australia's largest electricity generation portfolio, with an operated generation capacity of 11,208 MW, which accounts for approximately 20 per cent of the total generation capacity within Australia's National Electricity Market (**NEM**).

Following an initial indication to the market in March 2021 of a proposed structural separation, in June 2021 AGL Energy announced its intention to undertake a demerger to create two leading energy businesses with separate listings on the Australian Securities Exchange.

Under the demerger proposal, AGL Energy will become Accel Energy Limited (**Accel Energy**), an electricity generation business focused on the accelerating energy transition. Accel Energy will demerge a new entity, AGL Australia Limited (**AGL Australia**), a multi-product energy-led retailing and flexible energy trading, storage, and supply business. AGL Australia will retain the AGL brand.

AGL Energy intends to hold a scheme and general meeting to enable shareholders to vote on the proposal, and to complete the demerger in the fourth quarter of the financial year ending 30 June 2022 (**FY22**) subject to final AGL Energy Board, Australian Tax Office and relevant regulatory, court, and shareholder approvals.

The proposed demerger is intended to provide greater clarity of purpose for both AGL Australia and Accel Energy, positioning each company to better manage opportunities and challenges presented by the accelerating energy transition, and to deliver on their different but important roles in Australia's energy transition.

Should the demerger not proceed for any reason, AGL Energy would engage with the ESC to discuss future requirements in respect of this licence.

AGLA Vic Hydro Assets' generation & wholesale licence application

AGL Energy's generation fleet will be divided between Accel Energy and AGL Australia, with Victorian generators shown in Table 1.

The Victorian generators, through various AGL Energy subsidiaries, hold licences issued by the Essential Services Commission (**ESC**). To facilitate the allocation of generators between the two parent companies, we are seeking to align the licence and NEM registration for the generators with the allocation of AGL Energy subsidiary entities between the two parent companies.

AGLA Vic Hydro Assets Pty Limited is intended to take on the licence and NEM registration for hydroelectric generators allocated to AGL Australia. The existing licence for these generators (except Yarrowonga) is held by AGL Hydro Partnership.

AGL Australia	Accel Energy
Banimboola hydro power station	Loy Yang A power station
Bogong / McKay Creek hydro power station	Macarthur wind farm
Clover hydro power station	Oaklands Hill wind farm
Dartmouth hydro power station	Cairn Curran hydro power station
Eildon hydro power station	
Rubicon mountain streams hydro station ¹	
Somerton power station	
West Kiewa hydro power station	
Yarrowonga hydro power station	

Table 1

Existing licence for Victorian hydroelectric generators

Licence holder – AGL Hydro Partnership (ABN 86 076 691 481)



Figure 1

¹Rubicon hydro scheme consists of Rubicon power station, Lower Rubicon power station, Royston power station, and Rubicon Falls power station

Variation to existing licence for generators allocated to Accel Energy

Licence holder – AGL Hydro Partnership (ABN 86 076 691 481)

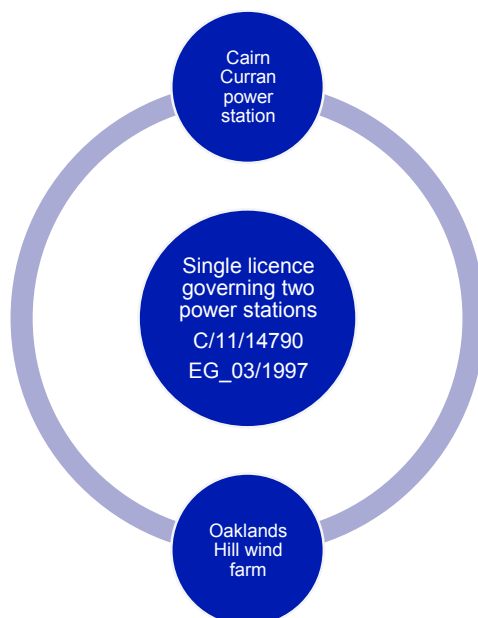


Figure 2

New licence for generators allocated to AGL Australia

Licence holder – AGLA Vic Hydro Assets Pty Limited (ABN 59 651 907 050)

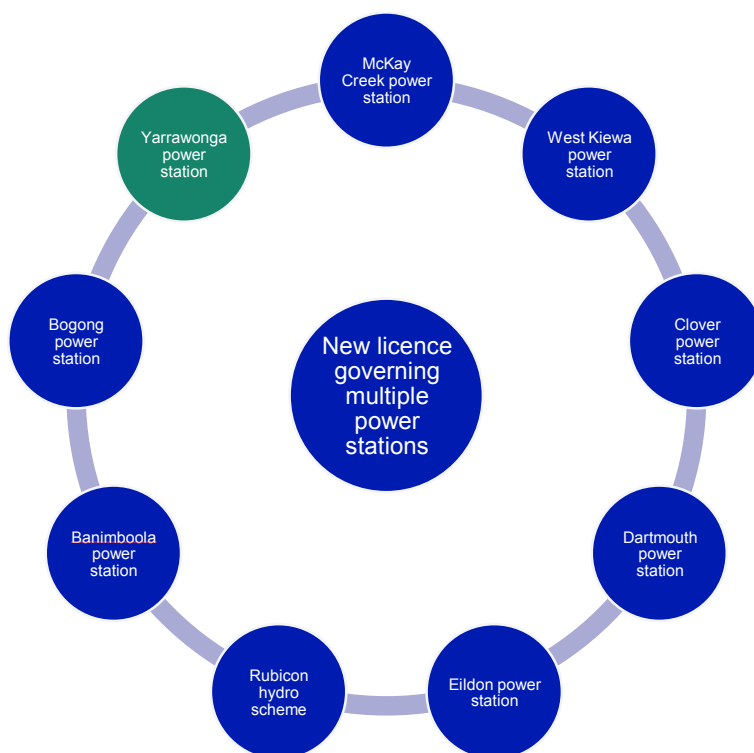


Figure 3

1. General information – applicant

1.1. Name of applicant

APPLICANT RESPONSE

AGLA Vic Hydro Assets Pty Limited

1.2. Legal identity of applicant

APPLICANT RESPONSE

ABN: 59 651 907 050

ACN: 651 907 050

Type of Entity: Australian proprietary company, limited by shares

1.3. Contact details and address of applicant

APPLICANT RESPONSE

Business address:	Postal address:	Contact person for the application:
Level 24, 200 George Street	Locked Bag 14120	Liz Gharghori
Sydney NSW 2000	Melbourne VIC 8001	Wholesale Markets Regulatory Manager
		L.Gharghori@agl.com.au
		03 8633 6723 / 0498 444 045

1.4. Diagram of corporate and organisational structure

- a) *corporate or other structure (including any parent and related companies within the meaning of the Corporations Act 2001), and*

APPLICANT RESPONSE

Attachment reference: Attachment 1.4(a) – corporate structure

- b) *organisational chart (including composition of the board, management, and other key personnel responsible for the key functions).*

APPLICANT RESPONSE

The organisation charts have been provided on the basis that AGLA Vic Hydro Assets is currently a wholly owned subsidiary of AGL Energy.

We have also provided an organisation chart showing the anticipated AGL Australia post-demerger. We will provide finalised organisation charts as they are confirmed.

Attachment reference: Attachment 1.4(b) – organisation chart



1.5. The Licence

APPLICANT RESPONSE

	McKay Creek	West Kiewa	Clover	Dartmouth	Eildon	Rubicon scheme	Banimboola	Bogong	Yarrowonga
Date from which licence is sought	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)	TBA (A date prior to 30 June 2022)
Type of generation	Hydroelectric	Hydroelectric	Hydroelectric	Hydroelectric	Hydroelectric	Hydroelectric	Hydroelectric	Hydroelectric	Hydroelectric
Name plate capacity	160MW	68.8MW	29MW	185MW	120MW	13.5MW	12.2MW	140MW	9.5MW
Location of generation facility	McKay Creek Power Station Rd Falls Creek VIC 3699	West Kiewa Rd Mt Beauty VIC 3699	Bogong High Plains Rd Bogong VIC 3699	Dartmouth Rd Dartmouth VIC 3701	Eildon Rd Eildon VIC 3713	Rubicon River Rd Rubicon VIC 3712	Dartmouth Rd Dartmouth VIC 3701	Bogong Village Bogong VIC 3699	Weir Rd Yarrowonga VIC 3730
Details of how the generator is connected to the network	220kV McKay-Bogong-Mt Beauty Line Mt Beauty Terminal	220kV West Kiewa-Mt Beauty Line Mt Beauty Terminal	66kV Clover Flat-Mt Beauty Line Mt Beauty Terminal	220kV Dartmouth-Mt Beauty Line Mt Beauty Terminal	220kV Eildon Power Station Switchyard (Ausnet)	AGL 22kV Line Rubicon A Zone Substation(Ausnet)	22kV Ausnet line to Dartmouth Power Station Mt Beauty Terminal (Ausnet)	EPSY Eildon Power Station Switchyard (Ausnet)	Imbedded 22kV connection via Cobram East Zone Substation CME14 (Powercor)

2. Technical capacity

2.1. Experience and knowledge of the industry

Please provide information about the human resources available to the applicant. This includes:

- a) *The experience and qualifications of those employees outlined in the organisational chart (see 1.4b);*
- b) *If the applicant will employ contractors or agents to assist with the licensed activities, the name of that contractor or agent, details about the experience of the contractor or agent in such operations and details of the processes in place to ensure the contractor or agent complies with the licence conditions, including relevant regulatory obligations*

Where the applicant is relying on a third party to provide staff and/or resources to meet the technical capacity requirements of the generation and wholesale licence, please provide:

- c) *the experience and qualifications of any relevant key employees who will manage those systems and processes;*
- d) *If the applicant will engage contractors or agents to assist with the licensed activities, provide the following information*
 - (i) *the name of the contractor or agent*
 - (ii) *the scope of activities undertaken by the contractor or agent*
 - (iii) *details of any formal agreements for the provision of services,*
 - (iv) *details about the experience of the contractor or agent in relation to the activities that it will be undertaking, including any accreditations, and*
 - (v) *details of the processes in place to ensure the contractor or agent complies with the licensee's regulatory obligations.*

APPLICANT RESPONSE

Attachment reference: Attachment 2.1 (Confidential)

2.2. Risk management

Provide confirmation and reasonable evidence that the applicant has identified the risks associated with electricity generation and wholesale operations. And that the applicant has established, utilise and rely upon risk management systems and processes which are adequate, accurate and current to address those risks. A copy of the applicant's risk management strategy and confirmation of any accreditation (e.g. AS/NZS ISO 31000:2009) should be provided.

APPLICANT RESPONSE

AGLA Vic Hydro Assets' risk management strategy is governed by AGL Energy's whole of organisation Risk Management Policy and Risk Management and Assessment Standard, which set out the organisational framework, expected practices, and governance structures in place for risk management. The Policy and Standard align with ISO 31000 Risk Management – Principles & Guidelines and the ASX Corporate Governance Council Principles and Recommendations.

Attachment reference: **Attachment 2.2(a) – AGL Risk Management Policy (Confidential)**
Attachment 2.2(b) – AGL Risk Management and Assessment Standard (Confidential)

AGL Energy has prepared a report titled, 'Accelerating Our Transition', in line with the Task Force on Climate-related Financial Disclosures (TCFD) framework. The report sets out four scenarios AGL Energy has modelled of climate-related risks, where this includes assessments of the potential operational, financial, and reputational risks.

The report shows the anticipated impact of the scenarios in a current state, whole of AGL Energy perspective, but also from a post-demerger perspective. This report usefully sets out the risks that AGL Australia faces, as the anticipated post-demerger parent company of AGLA Vic Hydro Assets.

Attachment reference: **Attachment 2.2(c) – Accelerating our Transition FY21 TCFD report**

Risks associated with electricity generation and wholesale operations are primarily governed by AGL's Integrated Energy Trading, Origination and Portfolio Risk Management Policy. This comprehensive policy describes the governance framework and approach to managing the following risks across wholesale and asset operations:

1. Market Risk
2. Counterparty Credit Risk
3. Operational Risk
4. Model Risk
5. Generation Asset Availability Risk
6. Contract Risk
7. Regulatory Risk
8. Liquidity Risk
9. Foreign Exchange Risk

Attachment reference: **Attachment 2.2(d) – Integrated Energy Trading, Origination and Portfolio Risk Management Policy (Confidential)**

2.3. Registration with the Australian Energy Market Operator

Please advise if the applicant will apply to register with the Australian Energy Market Operator and provide details of the applicant's registration. If the applicant is not registering with the Australian Energy Market Operator, please provide a reason.

APPLICANT RESPONSE

AGL Hydro Partnership is the registered participant for the generators listed in Section 1.5. Alongside this licence application, the applicant and AGL Hydro Partnership will be seeking to transfer generator registration to AGLA Vic Hydro Assets Pty Limited.

The applicant has agreed a timeline with AEMO to lodge the required generator registration transfer applications across February and March 2022, with an intention for the transfers to take effect across April and May 2022.

2.4. Licences held in other Australian jurisdictions

If the applicant holds, or have previously held, electricity and/or gas licences in other Australian jurisdictions please provide details. If a licence previously held has been suspended or cancelled, please provide details.

APPLICANT RESPONSE

The applicant does not hold, and has not previously held, licences in any jurisdiction.

2.5. Previous unsuccessful licence applications in other Australian jurisdictions

Identify and provide details on whether the applicant has applied for an electricity or gas licence in another Australian jurisdiction and have not been issued with a licence.

APPLICANT RESPONSE

The applicant has not had any previous unsuccessful licence applications.

2.6. Licences held by associates of the applicant

If an associate (within the meaning of the Corporations Act 2001) holds an electricity or gas licence in Victoria or in other Australian jurisdictions, please provide details.

APPLICANT RESPONSE

Attachment reference: Attachment 2.6 – licences held by related companies.

2.7. Compliance management

The applicant is required to submit evidence of compliance management which demonstrates how the compliance systems the applicant has (or will have) in place will ensure compliance with all of the relevant regulatory obligations required by the generation and wholesale licence. A copy of the applicant's compliance management strategy and confirmation of any accreditation (e.g. AS ISO 19600:2015) should be provided.

APPLICANT RESPONSE

AGLA Vic Hydro Assets' compliance strategy is governed by AGL Energy's whole of organisation Compliance Management Policy and Standard, which set out the organisational framework, expectations, and governance structures in place for compliance management. The Policy and Standard align with ISO 19600:2015 – Compliance Management Systems.

**Attachment reference: Attachment 2.7(a) – AGL Compliance Management Policy (Confidential)
Attachment 2.7(b) – AGL Compliance Management Standard (Confidential)**

Compliance with national and jurisdictional energy laws is governed by two key work streams within AGL Energy:

1. Physical Markets Trading

The Physical Markets Trading team is responsible for the hydroelectric generator's participation in the spot market and therefore has first line responsibility for compliance.

The Wholesale Markets Risk team then provides a second line of compliance and risk defence to the wholesale market trading activities.

Compliance for both the Physical Markets Trading and Wholesale Markets Risk team is governed by the Integrated Energy Trading, Origination and Portfolio Risk Management Policy.

Attachment reference: **Attachment 2.2(d) – Integrated Energy Trading, Origination and Portfolio Risk Management Policy (Confidential)**

2. Integrated Energy Operations

The Operations team manages AGL Energy's diverse portfolio of power generation and gas assets, including 11GW of operated capacity.

Each generator has registered performance standards with AEMO and institutes a Generator Compliance Program in line with the *Template for generator compliance programs*, which is issued by the Australian Energy Market Commission and updated periodically.²

AGL Energy has a technical Standard that defines the minimum requirements and responsibilities for instituting and maintaining a Generator Compliance Program. The Standard describes the process applied to determine whether a non-compliance with Generator Performance Standards has occurred and how to report such events to AEMO.

The Operations team has first line responsibility for generator operational and technical compliance.

The Risk & Governance team provides a second line of compliance and risk defence for generator operations activities.

Attachment reference: **Attachment 2.7(c) – AGL Generator Performance Compliance Standard (Confidential)**

2.8. Additional information

Provide any additional information the applicant considers relevant to the commission's assessment of the applicant's technical capacity.

APPLICANT RESPONSE

The applicant, as a subsidiary of AGL Energy, has all resources provided by its parent company and therefore has the benefit of AGL Energy's significant energy market experience. AGL Energy operates in almost all Australian states and territories, in electricity and gas, across retail and generation, and emerging technologies.

² The Template for generator compliance programs was last updated on 19 December 2019
<https://www.aemc.gov.au/regulation/guidelines-and-standards/template-for-generator-compliance-programs-2>



AGL Energy has a proven track record of market participation, including successful implementation of major energy market reforms. These include Power of Choice reforms, gas market capacity reforms, and most recently, the shift to five-minute settlement and the soft start to global settlements.

With access to the people, systems, and governance framework that has allowed AGL Energy to successfully operate as a Tier 1 energy company, AGLA Vic Hydro Assets is set up for success as both part of AGL Energy today and part of AGL Australia in the future.

3. Financial viability

3.1. Financial resources

The applicant must provide a statement that will be made available to the public during the consultation period that the applicant has the financial resources to commence and sustainably perform the relevant licensable activities.

Please provide a statement to confirm that:

- a) the applicant is financially viable and has the financial resources to sustainably operate the electricity generation facilities, and*
- b) the applicant will be a registered market participant with the Australian Energy Market Operator for its electricity generation activities, therefore subject to the prudential requirements under the National Electricity Rules.*

APPLICANT RESPONSE

The Applicant:

- is financially viable and has the financial resources to sustainably operate the electricity generation facilities, and
- will be a registered market participant with the Australian Energy Market Operator for its electricity generation activities, and therefore be subject to prudential requirements under the National Electricity Rules.

4. Suitability of applicant to hold a licence

4.1. Fit and proper person

In deciding whether to grant or refuse a licence application, the commission will consider whether the applicant is a fit and proper person to hold a licence in Victoria.

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.

We will also consider the conduct of directors, office holders or any person with significant managerial duties or influence. We will also consider the conduct of related bodies corporate or entities that can exert control over the applicant.

- a) *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:*
- (i) been declared bankrupt,*
 - (ii) had their affairs placed under administration,*
 - (iii) been disqualified from managing a company,*
 - (iv) been subject to debt judgements, or*
 - (v) insolvency proceedings (including any administration, liquidation or receivership in connection with the affairs of a company)?*

APPLICANT RESPONSE

As at the date of this application, the Directors of the Applicant are John Fitzgerald, Damien Nicks, and Christine Corbett (each, an “**Applicant Director**” and together, the “**Applicant Directors**”).

As at the date of this application, the Directors of AGL Energy Limited (being the ultimate holding company of the applicant) are Peter Botten, Graham Hunt, Jacqueline Hey, Diane Smith-Gander, Patricia McKenzie, and Mark Bloom (each, an “**AGLE Director**” and together, the “**AGLE Directors**”).

None of the matters described in paragraph (a) are applicable in relation to any of the Applicant Directors or the AGLE Directors.

If yes, provide details:

APPLICANT RESPONSE

N/A

- b) *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))?

APPLICANT RESPONSE

None of the matters described in paragraph (b) are applicable to any of the Applicant Directors or the AGLE Directors.

If yes, provide details:

APPLICANT RESPONSE

N/A

- c) *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 commission or any other regulator?*

APPLICANT RESPONSE

Yes

If yes, provide details:

APPLICANT RESPONSE

The applicant has prepared 10 years of disclosures for AGL Energy Limited and all subsidiaries. The disclosures also cover the individuals who currently have, or post-demerger, will have significant managerial responsibility for the applicant.

Attachment reference: Attachment 4.1(c) – Applicant disclosures (confidential)

- d) *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?*

APPLICANT RESPONSE

No

If yes, provide details:

APPLICANT RESPONSE

N/A

- e) *Please provide any other information the applicant considers is relevant to the commission's fit and proper person assessment.*

APPLICANT RESPONSE

N/A

4.2. Additional information

Please answer the following questions and, where the answer to any question is “no”, provide further detail.

- a) *Is the applicant a resident of, or does it have permanent establishment in, Australia?*

APPLICANT RESPONSE

The applicant is an Australian resident.

- b) *Is the applicant under external administration (as defined in the Corporations Act 2001) or under a similar form of administration under any laws applicable to it in any jurisdiction?*

APPLICANT RESPONSE

The applicant is not under external administration (as defined in the Corporations Act 2001) or under a similar form of administration under any laws applicable to it in any jurisdiction.

- c) *Is the applicant immune from suit in respect of the obligations under the Electricity Industry Act 2000?*

APPLICANT RESPONSE

The applicant is not immune from suit in respect of the obligations under the Electricity Industry Act 2000.

- d) *Is the applicant capable of being sued in its own name in a court of Australia?*

APPLICANT RESPONSE

The applicant is capable of being sued in its own name in a court of Australia.

4.3. Commission objectives

In deciding whether to grant or refuse a licence application, the commission must consider its objectives under the Electricity Industry Act and/or Gas Industry Act and the Essential Services Commission Act.

Our objective under the Essential Services Commission 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.

Please provide any information the applicant considers relevant to the commission’s consideration of its objectives outlined in:

- *Section 8 of the Essential Services Commission Act (also see s 8A of the Essential Services Commission Act),*
- *Section 10 of the Electricity Industry Act, and/or*
- *Section 18 of the Gas Industry Act.*

APPLICANT RESPONSE

This licence application is being made to facilitate the demerger of AGL Energy, resulting in the creation of AGL Australia, the intended parent company of AGL Energy's hydroelectric generation fleet. Accepting this licence application will aid in facilitating AGL Energy's demerger and the creation of AGL Australia. We believe that this is in the long-term interests of Victorian consumers.

AGL Australia will be a future focused business. It will be Australia's largest energy-led multi-product retailer of essential services to households and businesses, providing more than 4.5 million electricity, gas, broadband and other services.

AGL Australia will own and operate Australia's largest private hydro fleet as well as fast-start gas-fired power stations, a growing battery development portfolio and other wholesale and decentralised electricity and gas trading, storage, and supply capabilities.

AGL Australia will work with stakeholders to advocate for reforms that drive the continued uptake and integration of decentralised energy services, electric vehicles, broader demand-side participation, and the development of new flexible generation. Such reforms must aim to maximise shared value between energy businesses and customers, leverage private sector investment and minimise energy costs on households and businesses.