



Electricity retail licence

SmartestEnergy Australia Pty Ltd (ACN 632 313 029)

As varied on 22 June 2022 (with effect from 12 September 2022)



Electricity Retail Licence

This Licence is issued pursuant to section 19 of the *Electricity Industry Act 2000* (Vic).

Date

This Licence was last varied on 22 June 2022 with effect from 12 September 2022.

Licensee

This Licence is issued to:

SmartestEnergy Australia Pty Ltd (ACN 632 313 029) (the Licensee)

Level 4, 36 Carrington Street

Sydney NSW 2000

**THE COMMON SEAL of the
ESSENTIAL SERVICES COMMISSION**
was affixed pursuant to the authority
of the Commission on 8 July 2022

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A handwritten signature in blue ink, appearing to be "Kate Symons".

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Kate Symons

CHAIRPERSON

Part A - Interpretation

1 Definitions

1.1 Unless the contrary intention appears, a term has the meaning shown opposite it:

Act	the <i>Electricity Industry Act 2000</i> (Vic)
Administrator	means an administrator appointed by the Commission under section 34 of the Act in respect of the Licensee's Retail Business
AEMO	the Australian Energy Market Operator Limited (ACN 072 010 327)
Business Customer	A Customer who does not purchase electricity principally for personal, household or domestic use
Business Day	a day other than a Saturday, Sunday or a public holiday in Victoria
Code of Practice	means a Code of Practice made under Part 6 of the ESC Act or relevant legislation
Commission	the Essential Services Commission established under the ESC Act
Customer	a person to whom electricity is sold for premises by a Retailer or who proposes to purchase electricity for premises from a Retailer.
Energy Retail Code of Practice	means the code of practice of that name made under Part 6 of the ESC Act.
ESC Act	the <i>Essential Services Commission Act 2001</i> (Vic)
Licensee	SmartestEnergy Australia Pty Ltd (ACN 632 313 029)
Minister	the person who is, from time to time, the Minister administering the Act.
National Electricity Law	means the National Electricity (Victoria) Law as in force in Victoria under the <i>National Electricity (Victoria) Act 2005</i> (Vic)
National Electricity Rules	means the National Electricity Rules as in force from time to time under the National Electricity Law.
Objectives	the objectives specified in section 10 of the Act and section 8 of the ESC Act

Retail Business	means the business that a Retailer carries on under its Retail Licence or exemption granted under the Act
Retail Licence	a licence, granted under the Act, authorising the holder thereof to sell electricity
Retailer	a person who holds or is exempt from holding a Retail Licence
Small Renewable Energy Generation Electricity	has the same meaning as in section 40F of the Act, save that it includes electricity supplied from a qualifying solar energy generation facility within the meaning of section 40F of the Act
Standard Electricity Licence Conditions for Electricity Retail	The document of that name as published by the commission on 12 July 2022 (as varied from time to time in accordance with law)
Wholesale Electricity Market	means the market for wholesale trading in electricity operated by AEMO under the National Electricity Rules

1.2 In this Licence, unless the context otherwise requires:

- i. headings and footnotes are each for convenience only and do not affect the interpretation of this Licence;
- ii. words importing the singular include the plural and vice versa;
- iii. words importing a gender include any gender;
- iv. an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- v. a reference to a condition, clause, or part is to a condition, clause, or part of this Licence;
- vi. a reference to any statute including the Act and regulation, proclamation, Order in Council, ordinance, code, guideline, procedure or by-law includes all statutes, regulations, proclamations, Orders in Council, ordinances, codes, guidelines, procedures or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, Orders in Council, ordinances, by-laws and determinations issued under that statute;
- vii. a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- viii. a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- ix. other parts of speech and grammatical forms of a word or phrase defined in this Licence have a corresponding meaning;

- x. a period of time:
 - 1. which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
 - 2. which commences on a given day or the day of an act or event is to be calculated inclusive of that day;
- xi. an event which is required under this Licence to occur on or by a stipulated day which is not a Business Day may occur on or by the next Business Day.

2 Notices

2.1 A notice under this Licence is only effective if it is in writing, and dealt with as follows:

- i. if given by the Licensee to the Commission – addressed to the Chief Executive Officer of the Commission at the physical or email address specified below or as otherwise notified by the Commission:

Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000
licences@esc.vic.gov.au

- ii. if given by the Commission to the Licensee – given by the Chief Executive Officer of the Commission and addressed (and marked for attention of) the Chief Executive Officer of the Licensee at the physical or email address specified below, or as otherwise notified by the Licensee:

SmartestEnergy Australia Pty Ltd (ACN 632 313 029)
Level 4, 36 Carrington Street
Sydney NSW 2000
SEA-Operations@smartestenergy.com

A notice is to be:

- iii. signed by or on behalf of the person giving the notice and delivered by hand; or
- iv. signed by or on behalf of the person giving the notice and sent by pre-paid post; or
- v. transmitted electronically by or on behalf of the person giving the notice by electronic mail.

2.2. A notice is deemed to be effected:

- i. if delivered by hand – upon delivery to the relevant address;
- ii. if sent by post, in accordance with section 160(1) of the Evidence Act 2008 (Vic);
- iii. if transmitted electronically – in accordance with the Electronic Transactions (Victoria) Act 2000 (Vic).

2.3. A notice received after 5.00pm, or on a day that is not a Business Day, is deemed to be effected on the next Business Day.

Part B – Licence

3 Grant of the Licence

- 3.1 This Licence was first granted on 7 October 2020 and has been varied on the dates set out in Schedule 1 of the Licence.
- 3.2 Subject to clauses 3.3, 3.4 and 9, in exercise of its powers under section 19 of the Act, the Commission grants the Licensee a licence to sell electricity on the terms and conditions set out in this Licence.
- 3.3 Subject to clause 9, this Licence does not permit the Licensee to sell electricity through the Wholesale Electricity Market except when settling Small Renewable Energy Generation Electricity exports by a Customer through AEMO.
- 3.4 This Licence is subject to any prohibition set out in any Order in Council issued and in force under section 23 of the Act.

4 Variation

- 4.1 The Commission may vary this licence in accordance with section 29 of the Act.

5 Transfer

- 5.1 This Licence may be transferred in accordance with section 31 of the Act.

6 Revocation

- 6.1 The Commission may revoke this Licence:
- i. at any time at the request of, or with the consent of, the Licensee; or
 - ii. in accordance with the Act.
- 6.2 Where the Commission proposes to revoke this Licence, the Commission will issue a notice to the Licensee, specifying:
- i. the basis upon which the Commission proposes to revoke the Licence; and
 - ii. the date upon which the revocation is proposed to take effect, such date to be:
 1. in the case of a breach of clauses 7 or 8.1 of the Standard Electricity Licence Conditions for Electricity Retail, or where in the Commission's opinion it is appropriate that the Licence be revoked in a shorter time frame having regard to its Objectives and the events or circumstances that gave rise to the notice being issued, no less than 5 Business Days after the date upon which the notice is issued; and
 2. in all other cases, no less than 20 Business Days after the date upon which the notice is issued;

- iii. that the Licensee has the opportunity to make representations on the matter and the time and date and manner in which those representations must be made.
- 6.3 The Commission must consider any submissions received by the licensee prior to making a decision to revoke the licence.
- 6.4 Where the Commission decides to revoke this Licence, the Commission will issue a notice to the Licensee specifying:
- i. the basis upon which the Commission is revoking the Licence; and
 - ii. the date upon which the revocation takes effect, being no earlier than the date specified in the notice issued pursuant to clause 6.2;
- and this Licence will be revoked on the date specified in the notice.

Part C – Licence Conditions

7 Status of the requirements in this part

- 7.1 A failure by the Licensee to meet any of the requirements set out in this Part C is a breach of a civil penalty requirement for the purpose of the ESC Act.

8 Standard Electricity Licence Conditions for Electricity Retail

- 8.1 The Licensee must comply with the Standard Electricity Licence Conditions for Electricity Retail as may be varied from time to time in accordance with section 29 of the Act.

9 Special Licence Conditions

- 9.1 This licence authorises the Licensee to sell electricity to Business Customers only.

Note: The conditions identified in Part C of this Licence are not an exhaustive list of a Licensee's obligations. A licensee is required to comply with additional obligations as set out in the Act and instruments made under that Act. In particular, obligations are placed on the Licensee in Codes of Practice, including the Energy Retail Code of Practice.

Schedule 1 – Variations to the Licence

Date	Variation
22 September 2021	<p>This Licence was varied to:</p> <ul style="list-style-type: none">(a) amend the scope of sale authorised by the Licence to include all Customers other than Residential Customers and sale to embedded network customers where the Licensee is the Financially Responsible Retailer for the Child Connection Point and to make additional amendments of an administrative or consequential nature;(b) reflect a change of address for the Commission.
22 June 2022	Varied (with effect from 12 September 2022) to reflect the decision published by the Commission on 12 July 2022 following completion of the energy retail licence review.