

Energy retail licence application form

Purpose of this form

This form must be completed by or on behalf of a person applying to the Essential Services Commission (the commission) for a licence to authorise electricity and/or gas retail operations in Victoria.

Basis for this form

Section 18 of the *Electricity Industry Act 2000* and section 25 of the *Gas Industry Act 2001* (collectively, the Industry Acts) provides that a licence application must be made in a form approved by the commission. This is the form approved by the commission.

Use of this form and the applicant's responsibilities

A licence application may be made by any legal person including, without limitation, individuals, incorporated associations, unit and other forms of trusts and corporations. Entities that are not a legal person (for example, an unincorporated joint venture or a partnership) cannot apply for a licence.

For the purpose of this application form, reference to the term "Officer" includes the directors and secretary, and other persons who make or participate in making decisions that affect a substantial part of the applicant's business (for example, Chief Executive Officer, Chief Financial Officer or General Manager).

The applicant should list the information required in the spaces provided in this form and enclose additional information when required.

The applicant must take all reasonable steps to ensure the information provided in the application form is complete, true and correct.

An officer of the applicant is required to make a declaration to this effect in the application form. Failure to disclose information or misrepresent any matter relevant to such information may result in a licence not being issued or in the revocation of a licence later.

It is a criminal offence under section 61A of the *Essential Services Commission Act 2001* to provide the commission with false or misleading information or documentation.

The applicant is responsible for providing the commission with current, accurate and relevant documentation. It is the applicant's responsibility to make all reasonable inquiries to obtain the information required by this form.

Providing accurate and relevant information and a complete application (answering all questions and providing all information) will assist in timely processing of an application. All applications are assessed on a case-by-case basis. If insufficient information is provided with an application, we will contact the applicant about the requirement for additional information to be submitted before the application is considered further.

Prior reading

It is expected that the applicant has read our [Guideline: Applications for electricity and gas industry licences](#) before completing this form.

It is the applicant's responsibility to ensure its compliance with legal obligations when applying for a licence.

Licence conditions

The Industry Acts authorise the commission to issue licences subject to conditions as decided by the commission. Licences are published on our [website](#). We recommend the applicant familiarise itself with the relevant standard conditions and be confident that they can comply with those conditions and any other regulatory requirements such as Codes of Practice prior to applying for a licence.

Further information

The applicant should note that we may ask for further information, or to clarify the information that the applicant has already provided with the application.

Consultation and confidentiality

We will consult with relevant government, industry and consumer groups on the licence application through a public consultation process. Applications and/or supporting information that is not confidential will be made available on our website.

If the applicant believes that any information provided as part of its application is confidential or commercially sensitive, it is the applicant's responsibility to clearly identify this information on those documents. The applicant should also provide a 'non-confidential' version of the application form and documents for publication on our website and Engage Victoria (where relevant).

How to lodge an application

The applicant may send the completed application form electronically (preferred) or in hard copy to:

Electronically: licences@esc.vic.gov.au

Hard copy: Market Operations, Energy Division
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Large files

Applicants generally need to send us large files which is often not suitable via email. Please contact us at licences@esc.vic.gov.au to discuss alternative options to provide an application to the commission.

Application fees and annual licence fees

The commission has the authority to set a licence application fee. Currently, there is no application fee.

Holding a licence incurs annual licence fees. Refer to the commission's [Guideline: Applications for electricity and gas industry licences](#) for more information regarding annual licence fees.

1. General Information – The Applicant

The applicant must answer all questions in this section.

1.1 Legal name of applicant

State the full legal name of the applicant. The applicant is the person who will be selling (retail) electricity and/or gas that will be the subject of the licence.

Name:

1.2 Legal identity of applicant

Provide the applicant's ABN and ACN (where relevant) and information about the applicant (for example, whether the applicant is a private limited company, trust, or joint venture).

ABN:

ACN:

Type of entity:

1.3 Contact details and address of the applicant

The applicant	
Business address:	
State:	Postcode:
Postal address (if different):	
State:	Postcode:
Full name of contact person:	
Position title:	
Telephone:	Mobile:
Email:	

1.4 Diagram of corporate and organisational structure

Attach a diagram illustrating the corporate, including details of any related companies within the meaning of the *Corporations Act 2001* and the organisational chart. Provide a diagram of the:

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

Attachment reference:

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

Attachment reference:

1.5 The licence

The applicant must answer all questions in this section.

If the applicant is seeking for a licence to be issued by a certain date, identify this date. **Note: we do not undertake to issue the licence by this date.** The applicant should generally allow a minimum of eight to 10 weeks **once we consider the application to be complete.** An application is considered complete once we have all the information needed for the commission to make a decision. In other words, when we have no need to request further information from the applicant. This includes a public consultation period of four weeks (generally) as part of our consideration of licence applications.

Provide details on the following:

Date from which licence is sought:

Nature and scope of operations

State whether the applicant intends to retail to customers whose aggregate consumption, per annum, at a supply point is or is likely to be:

- (a) less than 40MWh of electricity or 1,000GJ of gas (small residential and/or business customers)
- (b) 40MWh to 160MWh of electricity or 1,000 to 5,000GJ of gas (medium customers)
- (c) more than 160MWh of electricity or 5,000GJ of gas (large customers).

2. Technical capacity

The applicant must answer all questions in this section.

2.1 Experience and knowledge of the industry

Provide comprehensive details and documentation of the systems, processes and approaches that the applicant will use to:

- a) manage wholesale market exposure (including a detailed description of how the applicant intends to manage wholesale pricing risk and a copy of the applicant's risk appetite statement)
- b) market to customers
- c) bill customers
- d) manage connection and disconnection processes
- e) manage customer complaints
- f) manage dispute resolution
- g) comply with regulatory reporting requirements.

For each of the above matters, provide details of the relevant systems and processes that the applicant will use. In providing those details include:

- h) the proposed business strategy and functions and how they will be resourced
- i) the experience and qualifications of relevant key employees who will manage those systems and processes
- j) if the applicant will engage third parties to assist with the licensed activities, provide the following information in relation to each third party:
 - (i) the name of that third party
 - (ii) the scope of activities undertaken by the third party
 - (iii) details and copies of any agreements for the provision of services
 - (iv) details about the experience of the third party in relation to the activities that it will be undertaking, including any accreditations, and
 - (v) details of the processes in place to ensure the third party comply with the licensee's regulatory obligations.
- k) details about how the applicant will balance service delivery with projected customer growth, and practical steps it will take to meet relevant regulatory obligations.

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Attachment reference:

2.2 Risk management

- a) Provide confirmation and evidence that the applicant has identified the risks associated with energy retail operations. Additionally, provide evidence that the applicant has established, utilised and relied upon risk management systems and processes which are adequate, accurate and current to address those risks.
- b) Provide a copy of the applicant's risk management strategy. A statement should also be provided (or supporting document must make it clear) whether the strategy has been developed in line with any Australian or International Standard (for example, ISO 31000:2018).
- c) Provide a copy of a risk register that identifies risks, controls and mitigations.

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Attachment reference:

2.3 Dispute resolution

- a) Applicants will need to provide documentation to demonstrate they are a member of the Energy and Water Ombudsman (Victoria) (EWOV) or have approached EWOV about [joining the scheme](#).

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Attachment reference:

2.4 Registration with the Australian Energy Market Operator

Advise if the applicant has or intend to register with the Australian Energy Market Operator (AEMO). If so, provide evidence of registration or exemption, or intending registration or exemption (for example, correspondence between the applicant and AEMO). If the applicant is not registering with AEMO, describe why that is the case.

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2.5 Licences held in other jurisdictions

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

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2.6 Previous unsuccessful licence applications in other jurisdictions

Confirm whether the applicant has applied for an electricity or gas licence or authorisation in another jurisdiction and not been issued with a licence or authorisation, provide details.

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2.7 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 another Australian jurisdiction, provide details.

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2.8 Compliance management

- a) Provide evidence of compliance management which demonstrates how the compliance systems the applicant has (or will have) in place will ensure compliance with all the relevant regulatory obligations required by the retail licence.
- b) Provide a copy of the applicant's compliance management strategy. A statement should also be provided (or supporting document must make it clear) whether the strategy has been developed in line with any Australian or International Standard (for example, AS ISO 19600:2015).

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Attachment reference:

2.9 Material agreements

Provide copies of agreements entered into, or intended to be entered into, by the applicant that are material to the undertaking of the energy retail activity.

Agreements that are material to the undertaking of the energy retail activity may include, but are not limited to:

- a) customer service and dispute resolution activities
 - b) billing services
 - c) metering data services
 - d) compliance functions
 - e) wholesale market exposure management
 - f) risk management services
 - g) inter-company services.
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Attachment reference:

2.10 Policies

Applicants proposing to retail energy to residential customers must provide a copy of a:

- a) Victorian financial hardship policy
- b) family violence policy
- c) life support policy.

Attachment reference:

2.11 Engagement with Energy Safe Victoria

Provide details about the applicant’s engagement with Energy Safe Victoria and any copies of correspondence.

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Attachment reference:

2.12 Additional information

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

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3. Financial viability

3.1 Financial resources

The applicant must provide a statement, which 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 and meet the service standards for small customers (if applicable).

Provide a statement to confirm that:

- a) the applicant is financially viable and has the financial resources to commence and sustainably operate the retail business, and
- b) the applicant will be a registered market participant with the Australian Energy Market Operator for its retail business and subject to prudential requirements under the National Electricity Rules or National Gas Rules (as applicable).

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If the applicant is intending to retail energy to medium or large customers only or holds a retail authorisation with the Australian Energy Regulator, the applicant is not required to complete the following section (skip to part 4 of the application form). There will be a licence condition that restricts the selling of energy to medium or large customers (as relevant).

The commission reserves the right to conduct a financial viability assessment and require the applicant to produce information and documents it considers appropriate to complete such an assessment. For example, the commission will likely require financial viability information from a retail licence applicant during periods of sustained high wholesale energy prices.

3.2 Supporting documentation

The applicant must provide documentation to demonstrate the applicant has access to sufficient financial resources to sustainably operate a viable retail business in the electricity and/or gas industry.

Provide the attachment reference for each document listed below and mark commercial-in-confidence where applicable:

- a) audited financial statements for the previous financial year or the past 12 months

Attachment reference:

- b) annual report

Attachment reference:

- c) guarantees in place

Attachment reference:

- d) shareholder register

Attachment reference:

- e) statements from banks/financiers, shareholders, the board or parent company

Attachment reference:

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.

Attachment reference:

Provide a five-year business plan. The business plan must demonstrate that the applicant meets the financial viability criterion. For example, it should provide information on (as applicable):

- a) current valuations of the assets that will be used in undertaking the licensed activity
- b) all sources of revenues from the licensed activity
- c) all costs involved in undertaking the licensed activity, including:
 - i. the cost of meeting any prudential requirements
 - ii. the cost of capital/debt
 - iii. the cost to acquire and serve customers
 - iv. the cost of meeting licence obligations
 - v. a financial model that supports the business plan.

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 analysis for such variables.

Attachment reference:

4. Fit and proper person

The applicant must answer all questions in this section.

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)?

If yes, provide details:

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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 not limited to, the *Competition and Consumer Act 2010*, *Corporations Act 2001*, or the *Australian Securities and Investments Commission Act 2001*)?

If yes, provide details:

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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?

If yes, provide details:

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d) Has the applicant, any directors of the applicant, any related body corporate, or any person with significant managerial responsibility been under investigation in relation to its regulatory obligations or is currently bound by an enforceable undertaking?

If yes, provide details:

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e) 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 or authorisation (in any jurisdiction)?

If yes, provide details:

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f) Provide any other information the applicant considers is relevant to the commission's fit and proper person assessment.

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Additional information

Answer the following questions and, where the answer to any question is “no” (except to question b)), provide further detail.

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

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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?

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c) Is the applicant immune from suit in respect of the obligations under the *Electricity Industry Act 2000* or *Gas Industry Act 2001*?

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

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5. Commission objectives

The applicant must answer all questions in this section.

In deciding whether to grant or refuse an electricity or gas retail licence application, the commission must consider its objectives under the *Electricity Industry Act 2000* and/or *Gas Industry Act 2001* and the *Essential Services Commission Act 2001* (ESC Act).

Our primary 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.

In seeking to achieve the objectives specified in section 8, the commission must have regard to the matters to the extent that they are relevant in any particular case.

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

- Section 8 of the ESC Act (also see section 8A of the ESC Act),
- Section 10 of the *Electricity Industry Act 2000*, and/or
- Section 18 of the *Gas Industry Act 2001*.

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6. Statutory declaration

All the information provided in this application and attached documents for the issue of an electricity or gas retail licence must be true and correct and must be verified by a statutory declaration. This statutory declaration must be made by the applicant (where the applicant is an individual) or a director of the applicant (where the applicant is a corporation) and must be made in accordance with the requirements of the *Oaths and Affirmations Act 2018*.

An example statutory declaration form can be found [here](#). Information for authorised witnesses can be found [here](#).

The statutory declaration must address the following:

- a) identification of the declarant's position and/or role with the applicant
- b) that the declarant believes the information provided in the application to be true and correct
- c) that the declarant believes the applicant has the financial resources to commence and operate the activities the subject of the licence. Further, that the applicant intends to be/is registered as a market participant with the Australian Energy Market Operator in relation to the activity of selling electricity or gas (if applicable).

I [name].....

of [address].....

make the following statutory declaration under the *Oaths and Affirmations Act 2018* (Victoria):

- a) That I am the director of **[insert company name and details]**
- b) I believe **[company name]** is financially viable, having adequate resources to commence and sustainably operate the retail business.
- c) **[Company name]** intends to register/is registered as a market participant with the Australian Energy Market Operator in relation to the activity of selling electricity or gas (if applicable)
- d) The information provided in this application (including any attachments) to the Essential Services Commission for an electricity or gas retail licence is true and correct

and I make this declaration conscientiously believing these matters to be true and knowing that making a statutory declaration that I know to be untrue is an offence.

Date:

Signature:

(signature of person making this statutory declaration in the presence of the authorised statutory declaration witness)

Declared at: on

Witness

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

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[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.