

Guideline 5 (2025): Revocation of electricity or gas licence

21 March 2025



Acknowledgement

We acknowledge the Traditional Owners of the lands and waterways on which we work and live.

We acknowledge all Aboriginal and Torres Strait Islander communities, and pay our respects to Elders past and present.

As the First Peoples of this land, belonging to the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.

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Contents

Acknowledgement	1
Guideline 5 (2022): Revocation of electricity or gas licence	3
Purpose and application	3
Scope of revocation power	3
Commission's general approach	4
Measure of last resort	4
Consideration of each case on its merits	4
Revocation process – procedural fairness	5
Circumstances where revocation may be appropriate	5
After a licence is revoked	7

Guideline 5 (2022): Revocation of electricity or gas licence

The Essential Services Commission has power to revoke an electricity or gas licence under the *Electricity Industry Act 2000* or the *Gas Industry Act 2001*. Without limiting the commission's broad discretion to exercise this power, the commission's general approach in deciding whether to exercise it is to:

- regard revocation of a licence to be a measure of last resort
- consider each case on its merits,
- provide the licensee with notice, and an opportunity to make representations, in relation to any proposed revocation.

Purpose and application

1. The commission's power to revoke an electricity or gas licence is contained in section 29(3) of the *Electricity Industry Act 2000* and section 38(3) of the *Gas Industry Act 2001*, respectively. This power may be exercised in relation to any licence issued under the Electricity Industry Act or the Gas Industry Act (including, for example, any electricity or gas retail licence).
2. The purpose of this guideline is to provide guidance on the scope of the commission's revocation power and the commission's general approach in deciding whether to exercise that power.
3. The commission's revocation power may be exercised where a licensee has requested or consented to the revocation of its licence. However, this guideline focuses on the exercise of that power in the absence of such a request or consent.

Scope of revocation power

4. Section 29(3) of the Electricity Industry Act and section 38(3) of the Gas Industry Act each provide that the commission may revoke a licence in accordance with the procedures specified in the relevant licence conditions.
5. The commission has a broad discretion to exercise this revocation power and is not restricted to exercising that power only in prescribed circumstances.

6. Nevertheless, in exercising the power, the commission:
 - a) must seek to achieve its statutory objective of promoting the long-term interests of Victorian consumers
 - b) must have regard to the matters set out in sections 8 and 8A of the Essential Services Commission Act 2001, including, for example, the price, quality, and reliability of essential services,
 - c) must consult the Australian Energy Regulator (**AER**) before it revokes an electricity or gas retail licence,
 - d) is subject to the general principles and limits of administrative decision-making, including the principles of procedural fairness.

Commission's general approach

7. The commission recognises that revocation of a licence is a serious matter and may result in far-reaching consequences for the relevant licensee.
8. As such, in deciding whether to exercise its revocation power, the commission will:
 - a) regard revocation of a licence to be a measure of last resort
 - b) consider each case on its merits
 - c) provide the licensee with notice, and an opportunity to make representations, in relation to any proposed revocation.

Measure of last resort

9. The commission regards revocation of a licence to be a measure of last resort, regardless of whether the commission is exercising its revocation power as a form of compliance or enforcement action.
10. As stated in the commission's [Compliance and Enforcement Policy](#), the commission will exercise its power to revoke a licence as a form of compliance or enforcement action only in the most severe instance or in repeated serious instances of non-compliance.
11. Similarly, in circumstances where revocation is not considered as a form of compliance or enforcement action, the commission will explore alternative forms of action that may be appropriate to address the issue(s) at hand before considering revoking a licence.

Consideration of each case on its merits

12. As outlined above, the commission must have regard to a range of matters related to its statutory functions.

13. In this context, the commission will consider all relevant circumstances before deciding whether to exercise its revocation power based on the merits of each particular case. For example, the commission may consider any of the following:
- a) the engagement that the commission has had with the licensee
 - b) the general conduct of the licensee
 - c) any action taken by the licensee to address the relevant issue(s)
 - d) the potential impact on customers and other stakeholders should the licence be revoked or not be revoked
 - e) any past or present enforcement action taken against the licensee
 - f) any past or present non-compliance by the licensee with a legal requirement
 - g) the views of other regulator(s) where relevant.

The specific circumstances considered by the commission will vary in each particular case and are not limited to the above considerations.

Revocation process – procedural fairness

14. Prior to deciding whether to revoke a licence, the commission will:
- h) engage with the licensee as soon as possible about the relevant issues
 - i) provide notice (first notice) to the licensee that the commission is proposing to revoke the licensee's licence, specifying the basis for such proposal
 - j) provide the licensee with an opportunity to make representations on the matter, and
 - k) consider any representations made by the licensee.
15. The timeframe and manner in which the representations must be made will be specified in the first notice referenced above. Such representations could relate to, for example, why the licence should not be revoked and how the licensee intends to address the relevant issues.
16. If the commission decides to revoke a licence after considering any representations made by the licensee, the commission will provide a revocation notice to the licensee that confirms the revocation and specifies the basis for revocation. The licence will then be revoked on the effective date of revocation specified in the revocation notice.
17. The above process is subject to any applicable procedures specified in the licensee's licence.

Circumstances where revocation may be appropriate

18. The Electricity Industry Act and Gas Industry Act provide the commission with a broad discretion to revoke a licence where it considers it appropriate to do so. This gives the commission the flexibility it needs to be responsive to circumstances as they arise.

19. The following are circumstances where revocation of a licence may be appropriate:
- a) repeated non-compliance with one or more of the following:
 - i. enforcement action under Part 7 of the Essential Services Commission Act
 - ii. a licence condition
 - iii. a requirement of a Code of Practice
 - iv. a statutory requirement
 - v. a decision, direction, determination, or arrangement made by, or agreed with, the commission, another regulatory, or the Minister
 - b) non-compliance that has resulted or could have resulted in a severe and material impact on its customers or trust and confidence in the Victorian energy market
 - c) non-compliance by a licensee that is fundamental to the performance of the licensed activities, including:
 - i. a retailer failing to maintain a Use of System Agreement with relevant distributors¹
 - ii. a retailer failing to maintain electricity/gas purchase agreements or be appropriately registered with the Australian Energy Market Operator (**AEMO**)²
 - d) any information provided by a licensee, including in its application for its licence, to the commission is found to be grossly false or misleading

Obligation to provide information to the commission

20. The commission is required to report to the AER and to AEMO, when it is aware of any events that might be, or may be at some time in the future, an event, circumstance or matter that may or will affect a retailer's ability to maintain continuity of the sale of gas or electricity to its customers, including events that materially impact, or would likely materially impact, a licensee's ability to remain financially viable to undertake the licensed activities, such as where:
- a) the licensee is in administration, receivership, or liquidation, or
 - b) has ceased to carry on business.
21. Accordingly, licensees are now required to report such matters to the commission.
22. In each case, the commission reserves the right to decide to revoke a licence, in consultation with the AER, based on the circumstances in each case. Further, the circumstances set out

¹ See clause 8 of the [Standard Electricity Licence conditions for Electricity Retail](#) (SELC).

² See clause 7 of the SELC and clause 8 of the [Standard Gas Licence conditions for Gas Retail](#).

above are not exhaustive and the commission may consider it is appropriate to revoke a licence in other circumstances.

Revocation process – Retail of Last Resort (RoLR) Event

23. A licence may be revoked under the Electricity Industry Act or the Gas Industry Act during the ‘retailer of last resort’ process, managed by the AER under the provisions of the National Electricity Retail Law that apply as a result of the commencement of the National Energy Retail Law (Victoria) Act 2024.
24. Revocation of a retail licence may occur when the AER issues a Retailer of Last Resort notice to a licensee under the section 136 of the National Energy Retail Law. See the AER’s Retailer of Last Resort Guidelines on the AER website for more information on the AER’s ROLR process. The retailer of last resort arrangements are designed to ensure that in the event of a retailer failing, customers continue to receive supply of electricity and gas.

After a licence is revoked

25. After a licence is revoked, the commission will ensure that notice of the revocation is published in the Government Gazette and on the commission’s [website](#) as soon as possible.
26. Where revocation of a retail licence occurs during the retailer of last resort process, the commission will publish a copy of the AER Retailer of Last Resort notice on the commission’s website.