

Relevant Entity Guide

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Introduction

About this guide

Victorian energy retailers with a liability under the Victorian Energy Upgrades (VEU) program are known as relevant entities and are subject to certain obligations in relation to calculating 'scheme acquisitions'.

This guide explains those obligations and liabilities, as well as the VEU program processes and requirements.

A relevant entity is liable under the Victorian Energy Efficiency Target Act 2007 (the VEET Act) in respect of scheme acquisitions that it makes during a calendar year.

A relevant entity that makes a scheme acquisition during the year has a statutory obligation under the VEET Act to provide us with an audited annual energy acquisition statement.

This guide is divided into the following sections:

- Section 1 helps you to determine if you are a relevant entity.
- Section 2 explains how to calculate scheme acquisitions.
- Section 3 explains scheduled activity premises and how to account for them.
- Section 4 outlines relevant entity annual energy acquisition statement obligations.
- Section 5 outlines the audit process.
- Section 6 outlines our reconciliation process to assess your liability under the program.

Who should use this guide

You should use this guide if you are a Victorian energy retailer and:

- need to determine if you are a relevant entity under the VEET Act
- need assistance with relevant entity processes and requirements.

Legal context for this guide

We have prepared this guide as a general summary of relevant parts of:

- Victorian Energy Efficiency Target Act 2007 (the VEET Act)
- Victorian Energy Efficiency Target Regulations 2018 (the VEET Regulations)
- Victorian Energy Efficiency Target Guidelines (the VEET guidelines)

View these documents at www.esc.vic.gov.au/veu-legislation

This guide should not be relied upon as substitute for legal advice and should be read in conjunction with the above source documents. You should seek your own legal advice in relation to your obligations as a relevant entity under the VEET Act. In the event of inconsistency between this guide and the source documents, the content in the source documents apply.

1. Are you a relevant entity?

A Victorian energy retailer is deemed to be a relevant entity under the VEU program for the 2018 calendar year if they meet any of the following three criteria:

Criterion 1

If at any time from 1 January 2018 a licensed energy retailer has 5,000 electricity and/or gas customers, it is deemed to be a relevant entity.

The calculation of the retailer's liability will include a proportion of those scheme acquisitions made by the retailer, based pro rata on the number of days remaining in the compliance year from the day on which the retailer's customer base reached 5,000.

Criterion 2

If at any time from 1 January 2018 a licensed energy retailer has less than 5,000 electricity and/or gas customers, achieves a scheme acquisition of at least 30,000 MWh of electricity or 350,000 GJ of gas in the 2018 compliance year.

The relevant entity will be liable for all MWh/GJ Victorian scheme acquisitions made for the 2018 compliance year (not only the scheme acquisitions made after reaching 30,000MWh/350,000GJ).

Criterion 3

If an energy retailer is licensed on or after 1 January 2018 and has less than 5,000 electricity and/or gas customers but achieves a scheme acquisition of at least 30,000 MWh or electricity or 350,000 GJ of gas for the 2018 compliance year on or after the date of being licensed.

The relevant entity will be liable for all MWh/GJ Victorian scheme acquisitions made for the 2018 compliance year (not only the scheme acquisitions made after reaching 30,000MWh/350,000GJ).

2. Calculation of scheme acquisitions

2.1. Review Australian Energy Market Operator data

Use data generated by the Australian Energy Market Operator (AEMO) in mid-February after the compliance year in question to calculate your scheme acquisitions.

You must implement relevant processes to help ensure your gas and electricity acquisitions accurately reflect the AEMO data for the compliance year in question.

In mid-February, we will provide relevant entities with the bill runs for the compliance year being audited.

2.2. Calculation of scheme acquisitions

Calculation of scheme acquisitions for the 2018 compliance year, and each subsequent year, must include:

- the purchase of **electricity** from AEMO for on-supply to all of the relevant entity's **electricity customers** in Victoria, other than the purchase of electricity for on-supply to:
 - customers in respect of premises that are scheduled activity premises¹ (excluding premises listed as a prescribed customer).
- the purchase of **gas** from AEMO for on-supply to all of the relevant entity's **gas customers** in Victoria, other than the purchase of gas from AEMO for on-supply to:
 - customers in respect of premises that are scheduled activity premises (excluding premises listed as a prescribed customer);
 - customers who own, control or operate a gas-fired electricity generator.

¹ Scheduled activity premises are defined in Regulation 5 of the Victorian Energy Efficiency Target Regulations 2018 (the VEET Regulations). See Section 3 for further information regarding scheduled activity premises.

3. Scheduled activity premises

3.1. Definition of 'scheduled activity premises'

Regulation 5 of the VEET Regulations defines scheduled activity premises as:

- the premises at the addresses specified in column 2 of the Table in Part 1 of Schedule 5 of the VEET Regulations
- the premises specified in column 2 of the Table in Part 2 of Schedule 5 of the VEET Regulations
- any other premises in relation to which there was, on 29 June 2014, an entry on the register of scheduled activities kept under section 26G of the Environment Protection Act 1970 (commonly known as Environment and Resource Efficiency Plans (EREP) premises).

These premises are excluded from the VEU program unless the occupier opts in by providing us with written notice. These premises become a 'prescribed customer' (pursuant to Regulation 40(2) of the VEET Regulations) on 1 January of the second calendar year in which a Victorian energy efficiency certificate (VEEC) is first registered for the premises. A prescribed customer is determined (under section 33(1) of the VEET Act) for the purposes of the definition of scheme acquisition.

Once the scheduled activity premises becomes a 'prescribed customer', a relevant entity liability exemption no longer applies and you must include the electricity and/or gas acquisitions from the premises in your annual energy acquisition statement calculation.

For a list of these premises, view the Register of Scheduled Activity Premises, available at: www.veu-registry.vic.gov.au/register-saps.

3.2. Identifying non-residential customers on the Register of Scheduled Activity Premises

When a non-residential customer is on our Register of Scheduled Activity Premises, the following steps must be taken:

- Notify us of your customers who occupy scheduled activity premises and who are not prescribed customers further to Regulation 40(2) of the VEET Regulations (i.e. premises who are not listed as a 'prescribed customer' on our Register of Scheduled Activity Premises). These customers are to be detailed on your annual energy acquisition statement.
- Ensure that your exemption claims match the customer names and associated scheduled activity premises address details as listed on our Register of Scheduled Activity Premises. We will reconcile and verify exemptions in accordance with the premises listed on our Register of Scheduled Activity Premises.

- Ensure that exemptions are not claimed for scheduled activity premises where the customer is defined as being a prescribed customer in relation to those premises pursuant to Regulation 40(2) of the VEET Regulations (i.e. exemption claims are not made for premises with the status of 'prescribed customer' on the commission's Register of Scheduled Activity Premises).

3.3. Reviewing the Register of Scheduled Activity Premises

It is your responsibility to review our Register of Scheduled Activity Premises and determine whether any of your customer's premises have had VEECs registered and/or have become a prescribed customer during the year.

You must ensure that:

- any changes to the status of a scheduled activity premises are accounted for when completing the annual energy acquisition statement process
- you collate and retain sufficient evidence in relating to acquisitions of electricity and/or gas for on-supply to customers who occupy scheduled activity premises listed on our Register of Scheduled Activity Premises.

While we make every effort to ensure that the Register of Scheduled Activity Premises is free from error, you are responsible for making your own assessment of the information and for verifying such information. All information on the register is subject to changes without notice. If you are aware of any inaccuracies in the register, contact us on veu@esc.vic.gov.au.

3.4. Where to get help

For further information regarding scheduled activity premises, please refer to the Large Energy Users' Scheduled Activity Premises Guide, available at: www.esc.vic.gov.au/veu-sap.

If you have any additional questions regarding the calculation of scheme acquisitions contact us on (03) 9032 1310 or veu@esc.vic.gov.au.

4. Annual energy acquisition statements

Any relevant entity that makes a scheme acquisition during the calendar year must provide us with an annual energy acquisition statement on or before 30 April of the following year (section 33(1) of the VEET Act).

Your annual energy acquisition statement needs to demonstrate that you have calculated your scheme acquisitions and corresponding relevant entity liability for the 2018 compliance year and each subsequent year in accordance with the procedures set out in this document.

4.1. Key information to be included

Ensure your statement includes:

- the amount of electricity and gas acquired under scheme acquisitions during the compliance year
- exemptions claimed during the calendar year for customers who occupy scheduled activity premises who are not defined as a prescribed customer under the VEET Regulations
- the value, in tonnes of carbon dioxide equivalent of greenhouse gas emissions, of VEECs being surrendered for that year
- any carried forward VEEC surplus for the previous year
- any carried forward VEEC surplus for the current year.

4.2. Audits of annual energy acquisition statements

Audit purpose

The primary purpose of the annual energy acquisition statement audit is to:

- confirm the amount of electricity and/or gas acquired by the relevant entity under scheme acquisitions during the compliance year. This includes verifying scheduled activity premises exemptions (deducted from total scheme acquisitions) who are not a prescribed customer pursuant to Regulation 40(2) of the VEET Regulations²
- determine the amount (if any) of the relevant entity's VEEC shortfall.

The audit will ensure that the information presented in the annual energy acquisition statement is correct and accurate and presented in accordance with the requirements of the VEET Act, VEET Regulations and VEET guidelines.

Approved auditors

² A person who occupies scheduled activity premises becomes a prescribed customer on 1 January of the second calendar year in which a VEEC is first registered for the premises.

Annual energy acquisition statements must be audited by an independent third party auditor before you lodge your statement with us (as specified in section 33(6) of the VEET Act).

The auditor must be approved by us, in accordance with the requirements of the VEET guidelines.

The framework for the administration of the audit requirements is set out in section 14 of the guidelines. It includes the minimum requirements for the independence and expertise of auditors, including the conduct and reporting of audits, to ensure to ensure independent, rigorous and consistent audits. By taking a risk-based approach to defining the audit scope, which maximises the cost-effectiveness of the process, the framework provides incentives for program participants to achieve compliance.

Using the VEET guidelines will assist you to achieve compliance and minimise the chances of significant non-compliance going undetected.

5. Audit process

The relevant entity compliance process is carried out over multiple months (as specified in the VEET guidelines).

The audit process for annual energy acquisition statements is divided into six key steps:

1. Confirmation of audit scope
2. Nomination of auditor by relevant entity
3. Approval of auditor by the commission
4. Completion of audit
5. Lodgement
6. Acceptance of annual energy acquisition statement and audit report.

5.1. Step 1: Confirmation of audit scope (due 1 October)

Your annual energy acquisition statement audit must be conducted in accordance with clause 14.4 of the VEET guidelines, unless we have issued a specific audit scope that applies to you for that compliance year.

We may issue a specific audit scope for your audit at any time prior to 1 October.

When deciding whether to issue a specific audit scope, we will consider:

- the obligations of the relevant entity under the VEET Act
- the risks associated with the relevant entity, including the likelihood and consequences of non-compliance
- other relevant matters.

A specific audit scope may include additional or fewer audit requirements than what is specified in clause 14.4 of the VEET guidelines.

If you receive a specific audit scope, it will apply to the audit of your annual energy acquisition statement due in the following calendar year and all subsequent audit years until we vary or withdraw it by 1 October in any given year.

5.2. Step 2: Nomination of auditor by relevant entity (due 30 November)

You must nominate, by 30 November in the compliance year, an independent auditor to conduct an audit of your annual energy acquisition statement, unless there is a current approval in place in respect of you and your auditor.

You must either nominate an auditor from our 'VEU audit panel' of approved auditors or propose a separate auditor for us to approve.

View the VEU Audit Panel List at: www.esc.vic.gov.au/veu-audit-panel.

We established VEU audit panel to:

- reduce the costs of identifying and nominating auditors that meet our key selection criteria
- improve the timeliness and efficiency of the auditing process.

If you nominate an auditor who is not on the audit panel, we will evaluate the nominated auditor to determine whether they meet our key selection criteria (see clause 14.1.1(d) of the VEET guidelines).

When nominating an auditor (whether or not they are from the audit panel), you must provide the following information to us at the time of the nomination:

- The name of the proposed auditor
- The name of individuals proposed to undertake any audit work for the auditor (the audit team).
- The name of the individual proposed to lead the audit team (who must be a partner or equivalent of the auditor and who will be required to sign the audit report and take full responsibility for its findings).
- The work history and skills of the audit team leader and each audit team member, and the roles they will play in undertaking the audit.
- Any work undertaken by the auditor for the relevant entity in the previous two years and any work the auditor is currently doing, or has bid for, in relation to the relevant entity.
- Any potential or perceived conflict of interest and how it is to be managed.
- The term of the approval requested. We will approve auditors for periods greater than one year but for no more than five years.

If the auditor is not listed on the audit panel, you must also provide:

- the auditor's field of work, core expertise, experience and corporate or business structure.
- evidence that the nominated auditor meets the key selection criteria set out in section 14.1.1(d) of the VEET guidelines.

5.3. Step 3: Approval of auditor by the commission (due 31 December)

For our approval of an auditor to become effective:

1. We will notify you in writing of our intention to approve the auditor once we are satisfied with the nominated auditor. This approval may be conditional.
2. You will need to meet any conditions attached to our notice of our intention to approve the auditor, unless we choose to waive them.

3. Provide us with an audit deed duly executed by both the auditor and you (as the relevant entity).
4. We will execute the audit deed.

Audit deed

The audit deed is a tripartite arrangement between you (the relevant entity), the nominated auditor, and us (the commission).

Under the terms of the deed:

- the auditor's primary duty of care is to us, not to you (the relevant entity)
- you must not require or seek changes to an auditor's report if the changes would conflict with the auditor's professional judgement and primary responsibility to us
- you must not unreasonably withhold payment or terminate any contract with the auditor over any adverse finding they make.

You must ensure that the nominated auditor does not commence any audit work on your behalf until the audit deed has been duly executed by all parties.

5.4. Step 4: Completion of audit (due 30 April)

Relevant entities and auditors are responsible for ensuring that sufficient time is allowed to complete and lodge the audit prior to the lodgement date of the annual energy acquisition statement.

The audit approach may vary depending on the auditor you nominate, but at a minimum must meet the VEET guidelines requirements (including any applicable audit scope document issued).

The auditor is responsible for understanding and adhering to the requirements of the VEET guidelines when assessing information you provide and preparing the audit report.

Your primary role during the audit will be to make your staff available to the auditor to answer questions and provide information to the auditor as requested.

It is also in your interest to read and understand the VEET guidelines. They will provide you with a greater understanding of the audit process, including the objectives of the audit and the information being audited.

You may ask to review a draft audit report. Reviewing the draft report may provide an opportunity to identify any factual inaccuracies. However, the auditor is not obliged to provide a draft audit report to you and may choose to do so at its sole discretion.

5.5. Step 5: Lodgment (due 30 April)

You must submit your annual energy acquisition statement, audit report and offer of obligatory surrender of VEECs to us by 30 April of the following year.

5.6. Step 6: Acceptance of annual energy acquisition statement and audit report

We will evaluate your annual energy acquisition statement and accompanying audit report. Once we are satisfied with the statement and your audit report, we will notify you of the approval via email. If we are not satisfied with the statement or findings in the audit report, we may require further investigation or actions.

For example, we may:

- obtain and analyse the auditor's record of its contacts with the relevant entity in order to obtain further detail of reported non-compliance, misrepresentation of data, or to investigate whether any significant changes have been made to drafts of the audit report
- require further auditing to be undertaken if we consider the final report is, or may be, materially unsatisfactory
- require that further auditing be undertaken by another approved auditor
- request in writing, further written or oral information (pursuant to Part 8 of the VEET Act)
- have authorised officers enter premises of a relevant entity to acquire information (pursuant to Part 7 of the VEET Act). Under the VEET Act, authorised officers may only exercise their powers to enter a relevant entity's premises if it is reasonably necessary to do so to substantiate information it has provided, or to determine whether the VEET Act has been complied with.

6. Reconciliation

6.1. Reconciliation of relevant entity liability against AEMO figures

Each year we review and assess the annual energy acquisition statements provided by each relevant entity. In particular, we review and assess:

- the relevant entity stated liability
- the reasonableness of the stated liability
- the methodology used to calculate the liability and demonstrated in the annual energy acquisition statement.

6.2. Reconciliation of scheduled activity premises exemptions

We will review and assess exemptions claimed during the calendar year for relevant entity customers who occupy a scheduled activity premises and are not defined as a 'prescribed customer' under the VEET Regulations.

We will reconcile and verify scheduled activity premises exemption claims in accordance with the premises listed on our Register of Scheduled Activity Premises.

You should ensure that your exemption claims match the customer name and associated scheduled activity premises address details listed on our Register of Scheduled Activity Premises.

Document version control

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1.0	Two explanatory notes (<i>Relevant entities: calculation of scheme acquisitions</i> and <i>Relevant entities: preparation and audit of annual energy acquisition statements</i>) consolidated into one relevant entity guide and updated.	8 November 2018
2.0	Updated to reflect new Victorian Energy Efficiency Target Regulations 2018.	10 December 2018