

Retail licence application form

Purpose of this form

This form must be completed by or on behalf of a person making an application to the Essential Services Commission (the commission) for the issue of a licence to authorise electricity and/or gas retail operations in the energy industry 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 an application for the issue of a licence must be made to the commission in a form approved by the commission. This is the form approved by the commission.

Use of this form and the applicant's responsibilities

An application for a licence may be made by any legal person including, without limitation, individuals, partnerships, incorporated associations, unit and other forms of trusts and corporations. Entities that are not a legal person (for example, an unincorporated joint venture) 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 (e.g. Chief Executive Officer, Chief Financial Officer, General Manager etc.).

The information requested in this application should be provided in the spaces provided and additional information enclosed when required. It is the applicant's responsibility to take all reasonable steps to ensure the information provided in the application form is complete, true and correct. An officer is required to make a declaration to that effect. (in the application form).¹ 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.

¹ Where an applicant is not a body corporate the applicant should contact the commission to discuss the appropriate person to make the required declarations

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 requested by this form.

Timely processing of the application will be helped by providing accurate and relevant information and a complete application (answering all questions and providing all information we need to complete our assessment). All applications are assessed on a case-by-case basis. If insufficient information is provided with an application, the commission will request additional information to be submitted before the application is considered further.

Prior reading

It is essential that the applicant reads our [guide to applications for electricity industry and gas industry licences](#) before filling out this form.

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

Licence conditions

The Industry Acts authorise us to issue licences subject to conditions as decided by us. We recommend the applicant reviews the standard conditions in our licence template. The applicant must be familiar with the relevant conditions and confident that the applicant can comply with the conditions.

Further information

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

Consultation and confidentiality

We will consult with relevant government, industry and consumer groups in the conduct of its licensing functions through a public consultation process. Applications and/or supporting information will be made available on our website and in hard copy from our office for this purpose.

If the applicant believes that any information the applicant provides is confidential or commercially sensitive, it is the applicant's responsibility to clearly identify this information. The applicant should also provide a 'non-confidential' version of the application form for publication on our website.

How to lodge an application

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

Electronically: licensing@esc.vic.gov.au

In writing: Essential Services Commission
8/570 Bourke Street
Melbourne VIC 3000

Application fees and annual licence fees

The commission sets the application fees. Currently, there is no application fee.

Holding a licence incurs annual licence fees. The licence fees are determined by the Assistant Treasurer. The commission will send an invoice for the licence fee to each licensee. Licence fees are to be paid on receipt of an invoice via one of the payment options set out in the invoice.

1. General Information – The Applicant

The applicant must answer all questions in this section.

1.1 Name of applicant

State the full 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/ACN and information about the applicant (i.e. whether the applicant is a private limited company, partnership, trust, or joint venture etc.).

ABN: **ACN:**

Type of entity:

1.3 Contact details and address of the applicant

The Applicant
Business address:

State:	Post code:
Postal address (if different):	
State:	Post code:
Full name of contact person:	
Position title:	
Telephone:	Mobile:
E-mail:	

1.4 Diagram of corporate and organisational structure

Please attach with this application form the corporate or other structure, including details of any related companies within the meaning of the Corporations Act 2001. Please provide a diagram of the:

- a) corporate or other 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 wants the licence issued by a certain date, provide this date. Please note that we do not undertake to issue the licence by this date. The applicant should usually allow a minimum of 16 weeks to consider an application or from eight to ten weeks **once the application is complete**. An application is considered complete once we have all information we need to take the application to commission for 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 at a supply point is or is likely to be:

- (a) less than 40 MWh (small residential and/or business customers)*
- (b) 40MWh to 160MWh (medium customers) and/or*
- (c) more than 160MWh in a year (large customers).*

The applicant should also indicate the location of the customers the applicant will sell electricity to (e.g. metropolitan and/or regional).

2. Technical capacity

2.1 Experience and knowledge of the industry

Please provide details of the systems and processes that the applicant will use to:

- a) manage wholesale exposure;
- 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, please provide details of the relevant systems and processes that the applicant will use, in providing those details please include:

- a) the experience and qualifications of any relevant key employees who will manage those systems and processes;
- b) 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.

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Attachment reference:

2.2 Risk management

Provide confirmation and reasonable evidence that the applicant has identified the risks associated with energy retail 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.

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Attachment reference:

2.3 Registration with the Australian Energy Market Operator

Indicate if the applicant has or intend to register with the Australian Energy Market Operator. If the applicant is already registered or intending to register, provide details of the registration or inquiries made. If the applicant is not intending to register with the Australian Energy Market Operator, please provide a reason.

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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.

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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.

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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.

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2.7 Compliance management

Provide evidence of how the compliance systems the applicant has (or are intending to have) in place will ensure compliance with all of the relevant regulatory obligations required by the retail licence. This evidence may include a copy of the applicant's compliance management strategy and confirmation of any accreditation (e.g. AS ISO 19600:2015).

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Attachment reference:

2.8 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 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, and meet the service standards for small customers (if applicable).

Please 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 (if applicable).

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If the applicant is intending to retail energy to large customers only and/or have authorisation to retail energy with the Australian Energy Regulator, the applicant does not need to complete the following section (please skip to part 4 of the application form). There will be a licence condition that restricts the selling of energy to large customers.

The commission may request information on financial viability of a licensee in its absolute discretion including, but not limited, to circumstances where a licensee varies its licence to retail energy to small customers, or no longer has authorisation with the Australian Energy Regulator.

3.2 Supporting documentation

The applicant must provide documentation to demonstrate the applicant has access to sufficient financial resources to sustain a viable business in the electricity and/or gas industry. Please provide the attachment reference for each document listed below and mark commercial-in-confidence where required:

- 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 bank/financiers, shareholders, the board or parent company

Attachment reference:

Please 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:

If the applicant is a new business (start-up) please 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):

- current valuations of the assets that will be used in undertaking the licensed activity
- all sources of revenues from the licensed activity
- all costs involved in undertaking the licensed activity, including:
 - the cost of meeting any prudential requirements
 - the cost of capital/debt
 - the cost to acquire and serve customers
 - the cost of meeting licence obligations
 - 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 analyses for such variables.

Attachment reference:

Suitability of applicant to hold a licence

The applicant must answer all questions in this section.

4. 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)?

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 limited to, the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), or the Australian Securities and Investments Commission Act 2001 (Cth))?

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 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?

If yes, provide details:

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

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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?

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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?

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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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(attach additional pages if necessary)

4. Commission objectives

The applicant must answer all questions in this section.

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.
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5. Statutory declaration

That all information provided in this application for the issue of an electricity retail licence is true and correct 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 (Vic).

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

The statutory declaration must address the following:

- 1) identification of the declarant’s position and/or role with the applicant
- 2) that the declarant believes the information provided in the application to be true and correct
- 3) 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 (if applicable).

I [name].....

of [address].....

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

- 1) That I am the director of [insert company name and details]
- 2) I believe [company name] is financially viable, having adequate resources to commence and sustainably operate the retail business.
- 3) [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 (if applicable).
- 4) The information provided in the attached application to the Essential Services Commission for an electricity 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.