

# **1<sup>ST</sup> ENERGY**

## **APPLICATION FOR ELECTRICITY RETAIL LICENCE JULY 2015**

1<sup>ST</sup> ENERGY PTY LTD  
ACN 604 999 706

This electricity retailer authorisation application is submitted for the attention of:

**Mr John Phillips**  
**Manager, Licensing**  
**Essential Services Commission**  
**Level 37, 2 Lonsdale Street**  
**Melbourne VIC 3000**

An electronic copy of this application has been emailed to:

[licensing@esc.vic.gov.au](mailto:licensing@esc.vic.gov.au).  
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## **1<sup>st</sup> Energy**

# **APPLICATION FOR A VICTORIAN RETAIL ELECTRICITY LICENCE**

## **1 INTRODUCTION**

1<sup>st</sup> Energy Pty Ltd is a privately owned company, proposing to establish an electricity retail business in Victoria, and other states of Australia. The following details will make up the application for a retail energy licence in Victoria. This application has been put together in accordance with the "Guidance Notes for Applications for Electricity Licences and the Transfer of Existing Electricity Licences" issued by the Essential Services Commission of Victoria (the Commission) in November 2006.

## **2 INFORMATION ON THE APPLICANT AND NATURE OF THE APPLICATION**

### **2.1 The Applicant**

Name: 1<sup>st</sup> Energy

ACN: 604 999 706

ABN: 71 604 999 706

A copy of the 1<sup>st</sup> Energy certificate of company registration is submitted as Attachment 3.  
A copy of the company constitution is submitted as Attachment 4.

### **2.2 Registered address**

8 Bronte Court, Hampton VIC 3188

### **2.3 Address of business activities**

Level 23, HWT Tower

40 City Road

Southbank

Victoria

3006

### **2.4 Key Contacts**

Mr Liam Foden

Executive Director

liam.foden@1stenergy.com.au

### **2.5 About 1<sup>st</sup> Energy**

The shareholders and management team of 1<sup>st</sup> Energy are experienced energy professionals, with the shareholders having previously successfully established and operated a licenced energy retailer in Victoria. The experience of having previously operated a licenced electricity retail business provides assurance that 1<sup>st</sup> Energy is well placed to participate as a new licenced electricity retailer in Victoria, and operate within the regulatory framework and

manage the risks incurred by an electricity retailer. The management team each have over 15 years experience in the energy sector, and this is set out in more detail below in section 2.10.

**2.6 Details of all contracts and agreements for outsourced services that are either under negotiation or to be entered into by the applicant to facilitate the conduct and operation of the electricity business.**

Copies of the contract and agreement for outsourced services are submitted as Attachment 13.

**2.7 Details of parties having an interest in 1<sup>st</sup> Energy**

Details of the shareholders of 1<sup>st</sup> Energy is contained in the shareholders register submitted as Attachment 6.

**2.8 Details of prosecutions or regulatory complaint commenced against the application or related or associated persons or key personnel**

There have not been any prosecutions or regulatory complaints commenced against 1st Energy, its related or associated person or its key personnel.

1<sup>st</sup> Energy also confirms that:

- None of its directors have been disqualified from the management of corporations.
- No 1<sup>st</sup> Energy director has been involved with previously revoked authorisations or licences held in any industry.
- Directors of 1<sup>st</sup> Energy have not been involved with any past or present bankruptcy proceedings in Australia or overseas.
- 1<sup>st</sup> Energy has the financial capacity to operate a retail electricity business, including meeting payment and credit support requirements with Distributors and AEMO.

A director's statement is submitted as Attachment 8 confirming such events have not occurred.

**2.9 Details of licence**

1<sup>st</sup> Energy is seeking a full Victorian Electricity Licence, with no non-standard condition. 1<sup>st</sup> Energy will retail to residential and small business customers and is anticipating commencement of retailing activities in Victoria in August 2015 or from a date when all relevant industry obligations and licence requirements have been met.

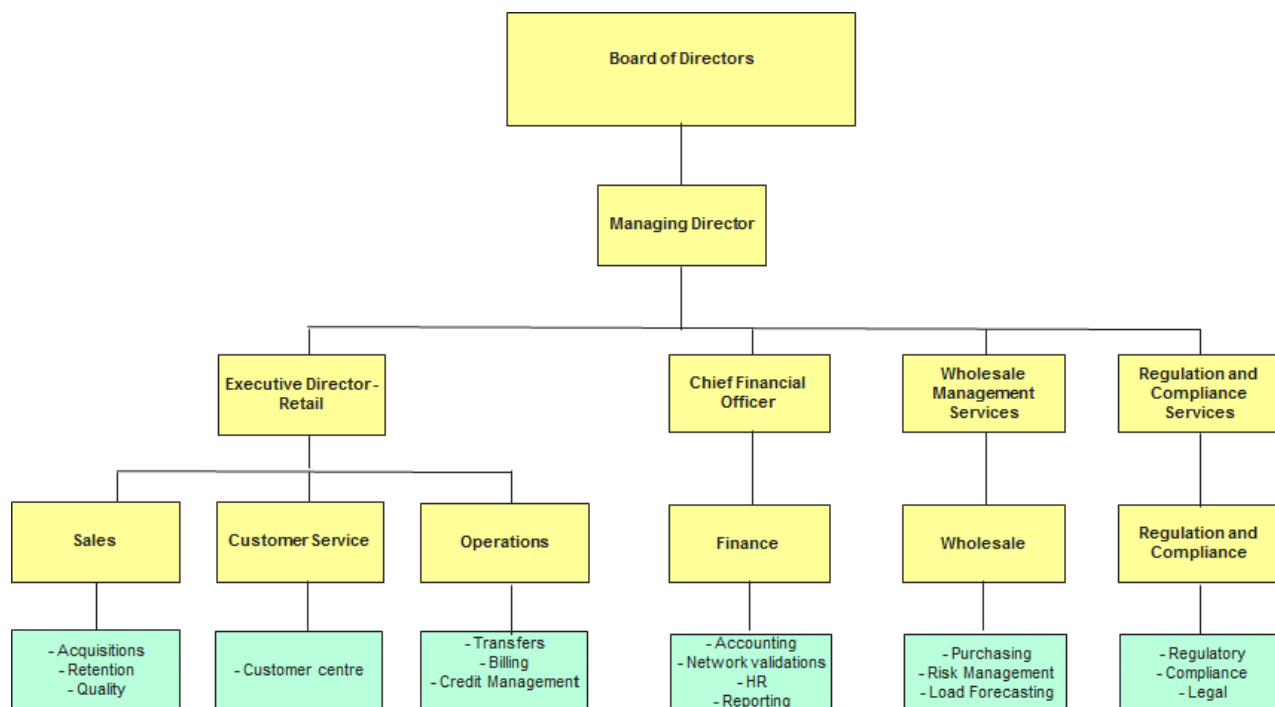
1<sup>st</sup> Energy has also submitted an application to the Australian Energy Regulator for an Electricity Retailer Authorisation. 1<sup>st</sup> Energy has not been prevented from or refused an

electricity licence in any jurisdiction. There are no outstanding legal proceedings or compliance issues.

## 2.10 Corporate and Organisational Structure

1<sup>st</sup> Energy is a privately owned company, and the shareholding is owned by a number of individuals. Details of the shareholding are outlined in Attachment 6, and Attachment 15 provides a tabulation of the resourcing requirements for the initial 2 years of business operations.

### 1<sup>st</sup> Energy Organisational Structure



### 1<sup>st</sup> Energy Board

The 1<sup>st</sup> Energy Board have appointed the following key members:

#### Liam Foden – Managing Director

Mr Liam Foden has over 15 years experience in the Australian energy industry, with senior management roles at EnergyAustralia, Lumo Energy as well as Powerdirect. Liam is experienced in retail pricing, customer billing, wholesale trading and settlements, network bill validation and customer transfers and administration. As Head of Retail Pricing, Liam was responsible for mass market pricing, revenue and gross margin for EnergyAustralia's 2.6m mass market customers. Prior to that Liam was General Manager Business Performance at



Lumo Energy, which covered pricing, billing and business intelligence for Lumo Energy's 400,000+ customers.

Liam also successfully established Lumo Telecommunications in 2008, a telco providing fixed line and broadband internet services to Lumo Energy's existing energy customer base. Over 12,000 customers were serviced by Lumo Telecommunications, which was subsequently sold to Bendigo Bank Telco. Customers are still serviced today by Bendigo Bank Telco.

### **Adam Landry – Executive Director, Retail**

Mr Adam Landry has close to 15 years experience in the Energy sector both in Australia and the UK. His first foray into energy was at Economy Power, a start-up SME based Retailer in the UK, where he was responsible for managing in house sales and retention activity. Economy Power sold its 40,000 strong SME customer base to European giant E.ON in 2005. Adam then took up an opportunity with Invensys to successfully set up their competitive metering and data aggregation vertical concentrating on blue chip organisations (customers included RBS, Tesco, The Co-Op and ASDA).

Following that he was lured back to E.ON initially to run their North West direct sales business before moving into a more operational end to end role in New Connections with responsibility for sales through Major Building companies, meter installation, billing of both customer and builder and credit management.

In 2012 Adam negotiated a return to Australia to take up a position with EnergyAustralia as National Sales Manager responsible for >250,000 annual sales, both Residential and SME, through external vendors. In that time he rebuilt EnergyAustralia's sales strategy with particular emphasis on delivering volume whilst working under a robust compliance framework and incentivising partners to deliver quality high value sales.

### **Donald Cheesman – Non-Executive Director**

Mr Donald Cheesman is currently a director of Kiwi Energy, a US based energy retailer. Kiwi Energy has over 100,000 customers primarily in New York. Donald was a founder and Managing Director of Victoria Electricity (now trading as Lumo Energy) from 2002-2007. Lumo Energy now has over 500,000 customers. Donald was also a founder and Managing Director of Energy Online, a start-up independent electricity retailer in New Zealand. Energy Online was formed in 1999 and now has 20,000 customers and annualised revenues exceeding \$25M. Prior to founding Energy Online, Donald Cheesman had 12 years experience in the electricity industry, which included senior management roles at Power New Zealand where he was responsible for the non-domestic customer base of 25,000 and Power New Zealand's wholesale energy purchases of approximately \$170 million per annum.

**Steve Eskrigge – Non-Executive director**

Mr Steve Eskrigge is currently a director of Kiwi Energy, a US based energy retailer. Kiwi Energy has over 100,000 customers primarily in New York. Steve was a founder and Executive Director of Victoria Electricity (now trading as Lumo Energy) from 2002-2008. Steve Eskrigge was also a founder of Energy Online and was the company's General Manager Marketing and Operations. Prior to founding Energy Online, Steve Eskrigge had 10 years experience in the energy industry, with roles at Enerco NZ, Integral Energy Australia and Power New Zealand. Preceding his involvement with Energy Online, Steve was Sales and Marketing Manager for Power New Zealand.

**Aneta Graham – Regulatory and Compliance Services**

Aneta Graham has over 11 years' experience in the Australian energy industry and was previously with Lumo Energy, (a founding member since its inception in 2004), as the General Manager of Regulatory Affairs and Compliance and a member of the Senior Executive Team.

Aneta has extensive industry knowledge of Regulatory, Compliance and Corporate Affairs matters and a track record of building and driving customer-focused teams with a shared commitment to compliance as a key driver of organisational strategies. Aneta has a thorough understanding of key business requirements to establish a new entrant retailer and has a comprehensive understanding of national and state legislation and energy regulations.

Aneta has held key industry Board positions on both Energy Assured Ltd (Deputy Chair) and Energy Retailers Association Australia (Alternate Director) and has authored multiple business policies in the areas of Customer Service, Compliance, Complaints Management and Hardship.

**2.11 Statutory Declaration**

A statutory declaration is included as Attachment 11, signed by the company Managing Director.

### **3 THE COMMISSION'S OBJECTIVES**

#### **3.1 General**

The grant of an electricity retail licence to 1<sup>st</sup> Energy would be consistent with the objectives of the Commission set out in s.8 of the Essential Services Commission Act 2001 (Vic) and s.10 of the Electricity Industry Act 2000 (Vic).

#### **3.2 Promoting the long term interests of Victorian consumers**

The entry of 1<sup>st</sup> Energy into the Victorian electricity market will benefit consumers in Victoria long term, by providing greater competition, choice and improved services.

#### **3.3 Promoting the development of full retail competition**

Granting a licence to 1<sup>st</sup> Energy promotes the objective of the ESC to provide customers a choice of electricity providers. 1<sup>st</sup> Energy aims to provide customers with tailored products and services to that offer a clear choice and point of difference. This will further develop competition in Victoria and provide consumers with a long term benefit.

#### **3.4 The price of essential services**

In a market with an optimal number of retailers, competition will be beneficial. Increased competition promotes efficient pricing. 1<sup>st</sup> Energy's intention to enter the electricity retail market is based on analysis that suggests the market environment supports the addition of new entrant retailers. Additionally, the 1<sup>st</sup> Energy business model allows for competitive prices on electricity and is centred on operational efficiencies with benefits that can be passed through to consumers. 1<sup>st</sup> Energy can provide competitive prices to consumers in a sustainable manner.

#### **3.5 Promoting a consistent regulatory approach within the electricity industry**

The key people of the executive management team at 1<sup>st</sup> Energy have extensive experience in dealing with compliance and regulation within the electricity industry.

#### **3.6 The reliability of essential services**

1<sup>st</sup> Energy will utilise its experience in the electricity industry to engage with AEMO and distributors to ensure high levels of service are met for its consumers. 1<sup>st</sup> Energy intends to provide tailored billing solutions to its customers to provide customers greater options over their service of electricity.

#### **3.7 Promoting consistency in regulation between states**

1<sup>st</sup> Energy intends to launch its operations into NSW, QLD and South Australia concurrently with its commencement in Victoria. With this in mind, 1<sup>st</sup> Energy has created its business processes to cater for all jurisdictions.

## **4 FINANCIAL VIABILITY**

### **4.1 Business plan/model**

1<sup>st</sup> Energy has submitted a detailed business plan as Attachment 1. The business plan details the resources, strategic position, product offering and growth forecast requirements.

### **4.2 Financial capacity**

1<sup>st</sup> Energy is a recently incorporated company, therefore at this stage it does not have any audited financial statements or business performance data.

The Financial Model submitted as Attachment 2, the funding arrangements specified in the shareholders agreement submitted as Attachment 5 and supporting bank statements submitted as Attachment 7, illustrate 1<sup>st</sup> Energy's capacity to meet its financial requirements. 1<sup>st</sup> Energy assures the Commission that it will meet the financial viability requirement of S.19(2)(a) of the Electricity Industry Act 2000 including all prudential and credit support requirements with its distributors.

The financial model submitted as Attachment 2 includes:

- Profit and Loss forecast
- Cash flow forecast
- Modelling assumptions

### **4.3 Written declaration from accountants**

An Accountant's statement is submitted as Attachment 9 and confirms:

- a) No insolvency or bankruptcy
- b) No winding up
- c) No other impeding factors

### **4.4 External consultant's statement**

Attachment 10 contains a written statement from an independent energy consulting firm, including an evaluation and review of 1<sup>st</sup> Energy's business plan and financial model to ensure consistency with industry-relevant factors and considerations.

### **4.5 Australian Financial Services License**

1<sup>st</sup> Energy is fully aware of its obligations to have an AFSL in place before dealing in financial derivatives. Information regarding 1<sup>st</sup> Energy's electricity wholesale strategy is commercially sensitive and is contained within the business plan submitted as Attachment 1 and Energy Risk Management Policy submitted as Attachment 17.

#### **4.6 AEMO Credit Support**

1<sup>st</sup> Energy will be required to provide credit support to AEMO. 1<sup>st</sup> Energy has reviewed the relevant credit support requirements, and has discussed and agreed the forecasted figures with AEMO. The attached Financial Model has provided for these requirements.

#### **4.7 Credit Rating**

1<sup>st</sup> Energy is a newly registered company and currently does not have a credit rating in place.

#### **4.8 Distribution Arrangements**

1<sup>st</sup> Energy has had initial discussions with each Victorian Distribution Network Service Provider and will have agreements in place with each provider prior to undertaking any retail activities in the relevant distribution zone. 1<sup>st</sup> Energy has discussed credit support and Use of System Agreement requirements and obligations with each distribution business. 1<sup>st</sup> Energy will meet its credit support obligations with Distribution Network Service Providers.

## **5 TECHNICAL CAPACITY**

1<sup>st</sup> Energy has created a number of policies and procedures to ensure the business remains compliant with all retailer obligations specified in the Acts, Codes, Guidelines, Regulations and licence conditions.

### **5.1 Compliance**

1<sup>st</sup> Energy has utilised its industry experience to develop relevant compliance controls and reporting required to operate a retail electricity business. This includes compliance with applicable codes and guidelines, as well as obligations and requirements in the Australian Consumer Law, Consumer and Competition Act, and Victorian Fair Trading Act. Documents submitted as Attachment 16 outline the processes and systems put in place to meet such requirements. 1<sup>st</sup> Energy will be using the Orion customer management system which is utilised by a number of energy retailers and has appropriate functionality to meet regulatory and compliance obligations to retail electricity in Victoria.

### **5.2 Risk Management**

1<sup>st</sup> Energy has developed wholesale and risk management policies, which include wholesale energy trading risk management and key operational risk management, such as disaster recovery processes. The Executive Management team have significant experience with managing wholesale and business risk. The Risk Policy documents are submitted as Attachments 17-18 (inclusive).

### **5.3 Dispute resolution**

Any complaints raised will be taken seriously and acted on swiftly, with internal resolution a primary objective. 1<sup>st</sup> Energy's customer management system is designed to capture customer interactions and can be reported on as required. 1<sup>st</sup> Energy has had initial discussions with EWOV, and will work proactively to resolve customer complaints within industry timelines. 1<sup>st</sup> Energy's internal complaint and dispute resolution policy is submitted as Attachment 19.

### **5.4 Training and Development**

1<sup>st</sup> Energy has created a training program in line with requirements set out of the relevant codes and laws. This training covers regulatory compliance, explicit informed consent, complaints handling, credit and hardship procedures and privacy. The training will be mandatory for staff with customer interactions, and records of training will kept with individual staff records. 1<sup>st</sup> Energy's training documents are submitted as Attachment 20.

### **5.5 Retail CRM**

1<sup>st</sup> Energy will be using the Orion Customer Management System which is managed by Agility Pty Ltd. Agility have been providing energy management software and support to Utilities across Australia, NZ, Fiji and the US for over 20 years. Agility currently provides these services for a number of retailers in the Australian electricity market, including Victoria. The system includes CRM and billing functionality, as well as regulatory and compliance reporting,

complaints management and data repository. The system has been designed to comply with the regulatory and compliance framework of the energy industry across the different jurisdictions.

Please see Attachment 12 which outlines the functionality of Agility software and services. A copy of the executed agreement between 1<sup>st</sup> Energy and Agility is submitted as Attachment 13.

### **5.6 Other Support tools**

To supplement the Orion CRM platform, 1<sup>st</sup> Energy is developing the following in house tools to support its retail strategy with:

- A website with online self-service functionality, pricing information, terms and conditions;
- Appropriate document storage facilities to store agent voice recordings and any relevant documentation in accordance with applicable laws and regulatory guidelines.

### **5.7 Terms and Conditions**

1<sup>st</sup> Energy's market and standing terms and conditions for prospective customers are submitted as Attachment 21. These will be maintained to ensure ongoing compliance with relevant codes and guidelines.

## **6 ADDITIONAL INFORMATION SUPPORTING THE ELECTRICITY RETAIL APPLICATION**

### **6.1 AEMO registration**

1<sup>st</sup> Energy has engaged with AEMO and will be executing an agreement with AEMO after the granting of an energy licence. 1<sup>st</sup> Energy's application to AEMO for market registration is attached as Attachment 22. 1<sup>st</sup> Energy can confirm that it can meet prudential requirements in accordance with its AEMO agreement.

### **6.2 Department of Health and Human services**

1<sup>st</sup> Energy has contacted the Department of Health and Human Services and will enter into arrangements for the provision of concessions to eligible customers after the granting of a licence. 1<sup>st</sup> Energy is aware of the various concession schemes administered by both the state government and federal government, and our policies around hardship are in-line with requirements.

### **6.3 ASX Austraclear Membership**

1<sup>st</sup> Energy is in the process of preparing an application to ASX for membership of the Austraclear system for the settlement of energy purchases. The participation will be completed on the granting of market participation by AEMO, post the granting of a retail licence.

### **6.4 OMBUDSMAN Scheme**

1<sup>st</sup> Energy has made contact with EWOV and is familiar with the requirements of the scheme. An agreement with EWOV will be executed after the granting of an electricity licence and before any retailing activities occur.

### **6.5 Community Services Agreements**

1<sup>st</sup> Energy has made contact with DHHS and will enter into Community Services Agreements for the provision of concessions to eligible customers.

### **6.6 Metering Arrangements**

1<sup>st</sup> Energy will utilise deemed metering arrangements with the distribution business for metering to small customers. Should 1<sup>st</sup> Energy seek to retail to large businesses, appropriate arrangements will be made with authorised metering providers.



## **7 ATTACHMENTS**

### **7.1 Attachments 1-25 listed below are provided on a commercial-in-confidence basis.**

Attachment 1 – Business Plan

Attachment 2 – Financial Model

Attachment 3 – Certificate of company registration

Attachment 4 – 1<sup>st</sup> Energy Constitution

Attachment 5 – Shareholder's Agreement

Attachment 6 – Shareholder's Register

Attachment 7 – Bank Statements

Attachment 8 – Director's Statement

Attachment 9 – Accountant's Statement

Attachment 10 – External Consultant's Statement

Attachment 11 – Statutory Declaration

Attachment 12 – Agility/Orion CIS Overview

Attachment 13 – Agreement between 1<sup>st</sup> Energy and Agility

Attachment 14 – Organisational Structure

Attachment 15 – FTE Timeline

Attachment 16 – Compliance Policies and Documents

Attachment 17 – Energy Risk Management Policy

Attachment 18 – Crisis Management Plan

Attachment 19 – Complaint and Dispute Resolution Policy

Attachment 20 – Training Documents

Attachment 21 – Market and Standing Offer Terms and Conditions

Attachment 22 – AEMO Application

Attachment 23 – Privacy Policy

Attachment 24 – Hardship Policy

Attachment 25 – Customer Charter