

Guideline: Applications for electricity and gas industry licences

Version 1.3

10 March 2023



An appropriate citation for this paper is:

Essential Services Commission 2023, Guideline: Applications for electricity and gas industry licences: Version 1.3, 10 March

This Guideline: Applications for electricity and gas industry licences – version 1.3 supersedes the following:

- Guideline: Applications for electricity and gas industry licences – version 1.2 (August 2022)
- Guide to Applications for Electricity Industry and Gas Industry Licences – version 1.1 (December 2020)
- Guide to Applications for Electricity Industry and Gas Industry Licences (June 2019)
- Guidance Notes for Applications for Electricity Licences and the Transfer of Existing Electricity Licences (November 2006)
- Procedures for Applications for Electricity Licences and Electricity Licence Transfers (November 2006)
- Guidance Notes for Applications for Gas Licences and the Transfer of Existing Gas Licences (November 2006)
- Procedures for Applications for Gas Licences and Gas Licence Transfers (November 2006)

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1. Introduction

1.1. About this guideline

The Essential Services Commission (the commission) is the independent regulator established by the Victorian Government to regulate prescribed essential services, including the electricity and gas industries.

One of the commission's statutory functions is to administer energy licensing in Victoria under Division 3 of Part 2 of the [Electricity Industry Act 2000](#) and Division 2 of Part 2 of the [Gas Industry Act 2001](#).

Any person who engages in the following activities must either be licensed by the commission, be exempted from the requirement to hold a licence or hold a trial waiver (refer to section 6 of this guideline for further information on exemptions and trial waivers):

Electricity industry activities	Gas industry activities
<ul style="list-style-type: none">• Supply or sale of electricity (either by retail or through the wholesale market)• Generation of electricity for supply or sale• Transmission of electricity• Distribution or supply of electricity.	<ul style="list-style-type: none">• Sale of gas by retail• Providing gas services (either by retail or through the wholesale market) by means of a distribution pipeline.

This guideline, issued pursuant to section 13 of the *Essential Services Commission Act 2001*, provides information and guidance to licence applicants about our approach to assessing applications and the information required to assess applications. The guideline also includes information on the variation, transfer and revocation of licences.

Applicants should note that this guideline does not in any way detract from or amend any statutory or regulatory requirements.

1.2. Assessment of licence applications

In deciding whether to grant or refuse a licence application, the commission is bound by the provisions of the [Essential Services Commission Act 2001](#), the [Electricity Industry Act 2000](#) and/or the [Gas Industry Act 2001](#), and Orders in Council made under those Acts.

The commission will not grant a licence application unless it is satisfied that:

- the applicant has and will maintain the technical capacity to comply with the conditions of the licence and other regulatory instruments such as Codes of Practice
- the applicant is financially viable¹
- the applicant is a fit and proper person to hold a Victorian electricity or gas industry licence.

In deciding whether to grant or refuse a licence application, the commission must have regard to its objectives under the [Essential Services Commission Act 2001](#), the [Electricity Industry Act 2000](#) and the [Gas Industry Act 2001 \(as applicable\)](#). Further information about these matters is provided in part four of this guideline and in the respective licence application forms on our [website](#).

All electricity and gas licence applications are assessed on a case-by-case basis. We may request additional information and documentation as part of the assessment of the application. We may also depart from the process described in this guideline or relevant application form if we consider it appropriate.

Failure to submit a complete application may result in the application being considered invalid and consideration of the application may not proceed. It is an applicant's responsibility to provide a complete and accurate application.

The applicant must take all reasonable steps to ensure the information provided in the application form is complete, true and correct. Should information change subsequent to the application being lodged, but prior to the application being considered, the applicant must update the information in its application.

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.

¹ We may not have to be satisfied as to the applicant's financial viability, if the applicant is applying for a licence which includes a condition requiring compliance with the National Electricity Rules or National Gas Rules and the Rules include prudential requirements. However, we have absolute discretion regarding whether to assess an applicant's financial viability and retail applicants will be subject to a financial viability assessment in all cases.

Introduction

1.2.1 Additional considerations for retail electricity and gas licence applicants

It is important to note that, in the context of the significant wholesale market volatility in 2022, and the subsequent exit of a number of energy retailers both in Victoria and other Australian jurisdictions, the commission is now applying additional scrutiny to retail electricity and gas licence applications.

The exit of retailers from the market through retailer of last resort events has the potential to cause harm to customers who generally become unsecured creditors and may lose money they had prepaid to their former energy retailer. More broadly, failing retailers are at increased risk of being unable to meet their regulatory obligations, such as the provision of customer protections. High levels of retailers exiting the market also have the potential to undermine and erode consumer trust in the market, even where the physical supply of energy continues, and can place additional operational and financial burdens on other retailers which increases the risk of wider financial contagion issues in the market.

Given the above, the commission will **not** grant new licences to retail energy unless the commission is positively satisfied that:

- the applicant has the **organisational capability** to satisfy the **technical capacity** statutory threshold, including appropriate risk management strategies and internal capacity and governance arrangements to oversee core functions such as risk management and compliance (including where functions might be outsourced to third parties)
- the applicant has appropriate **financial resources** and **liquid capital** to sustainably operate a retail business, including the ability to effectively manage and survive financial shocks and the consequential increased operating costs
- entry of the applicant into the retail market will promote the long-term interests of Victorian energy consumers with respect to the price, reliability and quality of energy.

1.3. Legislative framework

Before making an application, applicants should read and understand the relevant parts of:

- the *Essential Services Commission Act 2001* (the ESC Act)
- the *Electricity Industry Act 2000* (the Electricity Industry Act)
- the *Gas Industry Act 2001* (the Gas Industry Act) (together, the Industry Acts)
- other codes of practice and guidelines that apply to licensees, such as the [Energy Retail Code of Practice](#) and the [Electricity Distribution Code of Practice](#).

Introduction

All applicants must have a detailed understanding of the legislation and regulatory instruments relevant to their proposed activities.

This guideline should not be relied upon as a substitute for legal advice and should be read in conjunction with the above legislation and regulations. In the event of inconsistency between this guideline, the relevant legislation and regulatory instruments apply. It is the responsibility of the applicant to ensure it is complying with its legal obligations when applying for a licence.

2. Applying for a licence

2.1. Who may apply for a licence

An application for a licence may be made by any legal person including individuals, incorporated associations and corporations.

Entities that are not a legal person (for example, an unincorporated joint venture) cannot apply for a licence.

2.2. How to apply for a licence

If an applicant has any queries following their review of this guideline and the relevant licence application form, they can contact us at licences@esc.vic.gov.au, prior to lodging their application.

The application form requires applicants to identify whether any third parties assisted with their application. There will be instances when the commission may wish to engage directly with an applicant to obtain more information about an application.

The applicant may send the completed application form and attachments electronically (preferred) or by 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

Individual attachments that are clearly titled (consistently with the attachment references specified in the application form) must be provided. Do not bundle attachments into single, large files.

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.

Applying for a licence

2.3. Application fee 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. See [section 7.2](#) of this guideline for more information regarding annual licence fees.

3. The licence assessment process

3.1. The assessment process

There is no statutory timeframe for the commission to process or consider a licence application. Generally, it will take approximately eight to 10 weeks to process an application **once we consider the application to be complete**. An application is considered complete once all the information in the application form has been provided and any additional information from the applicant needed for the commission to make a decision has been provided.

The eight to 10 weeks processing time includes the time taken for public consultation (generally four weeks) in line with the commission's Charter of Consultation and Regulatory Practice and as required under the Industry Acts. The assessment and decision timeframes can be affected by the details and circumstances of the application, the quality and standard of the material provided, and the number of submissions received in relation to the application (where applicable).

We will assess applications on a case-by-case basis having regard to the requirements of the Industry Acts and the commission's statutory objectives, including those in the *Essential Services Commission Act 2001* and Industry Acts. We may engage external parties (for example accountants or lawyers) to assist us with assessing a licence application.

We encourage applicants to consult with other relevant entities to ensure they understand, and will meet, all relevant regulatory obligations that will apply for a particular licence. These parties include the Australian Energy Market Operator, Energy Safe Victoria, licensed distributors, the Energy and Water Ombudsman (Victoria), and the Department of Families, Fairness and Housing.

3.1.1. Timing of the application

Applicants should provide all relevant information and material to the commission to allow sufficient time for the application to be assessed.

Applicants should apply for a licence once they have a firm plan to commence carrying out the proposed activity and are able to demonstrate that they meet the relevant criteria for being granted a licence. Applicants should confirm, and be able to demonstrate, that they have an ability to commence operation within a specific and reasonable timeframe should a licence be granted.

We acknowledge that the planning and development phases for some projects that are intended to culminate in licensable activities may take a significant period of time to complete. Further, powers that are granted to certain licensees, such as land access powers, may facilitate those preliminary stages of a project.

The licence assessment process

The framework permits the granting of applications where the licensable activity is some years away from commencement, particularly for large-scale electricity transmission and generation projects. However, applicants must be able to demonstrate that the activity for which the licence is being applied for is not merely speculative and there is a reasonable likelihood of that activity being undertaken.

The commission will consider a range of factors in determining whether a licence is appropriate at a point in time, including funding, planning and development approvals that have been obtained (or are yet to be obtained) and the stage of any applicable regulatory investment test process. Any licence granted where the activity is not due to commence for a considerable period of time is likely to be subject to conditions to provide for additional commission oversight during this period.

3.1.2. Consultation (publication of the licence application)

We are required to publish a notice of a licence application and to invite interested persons to make submissions on the application.²

A copy of the application will also be published on our website.

We also publish applications for electricity and gas retail licences that involve the sale of energy to residential and small business customers on Victorian Government's consultation platform, [Engage Victoria](#).

We will generally publish the application once we are satisfied that it is complete and where we do not require any further information.

We will publish applications for consultation in line with the commission's Charter of Consultation and Regulatory Practice and generally provide four weeks for interested parties to make submissions.

3.1.3. Confidential information

To fully inform the public about the licence application, we prefer all information provided by the applicant to be made publicly available.

However, publication of some sections of the application can be restricted where we consider information to be confidential.

² Section 19(6) of the *Electricity Industry Act 2000* and section 26(2) of the *Gas Industry Act 2001*.

The licence assessment process

Any information or documents submitted on a confidential basis must be:

- attached as separate schedules to the application and marked as confidential; or
- alternatively, identified in the body of the application with highlighting (with redacted and unredacted versions of the application supplied).

Applicants must also provide specific reasons as to why they are claiming confidentiality. Applicants should include clear cross-references, identifying the particular parts of the information or documents to which each claim for confidentiality relates. **We are not responsible for the identification of confidential information.**

Where we consider that information or documents have been inappropriately marked as confidential, we will discuss this with the applicant. Further, we may be required to release information or documents the applicant may consider confidential under the *Freedom of Information Act 1982*.

3.1.4. Submissions

We accept submissions from all interested persons. An interested person can include industry bodies, regulators, private sector operators, community groups and members of the public.

All submissions received, except those that are confidential, are published on our website. Submissions are published in accordance with our [submissions policy](#).

Where submissions are made, we will notify the applicant in writing and provide copies of any published submissions and summaries of any unpublished submissions. The applicant will be provided with an opportunity to respond to the submissions in writing.

3.1.5. Consideration of the application

We will consider the application following the consultation period and the receipt of any response from the applicant in relation to the submissions.

In doing so, we consider all relevant material, including all material provided by an applicant in support of its application, any submissions made by interested persons and any responses by the applicant.

We may consider material obtained from other sources and may seek advice from external consultants and others in relation to any relevant matters, including to review the accuracy and reliability of information provided by an applicant.

The licence assessment process

3.1.6. Consideration of draft licence by applicant

We will provide applicants with a copy of the draft licence for consideration prior to the commission's decision.

3.1.7. Decision and notification

Applicants will be notified in writing of our decision to grant or refuse an application and the decision will be published on the commission's website. Parties who made submissions will also be notified of our decision.

We will also publish any decision to grant a licence in the Victorian Government Gazette.³

In the event of a refusal to grant a licence, we will provide the applicant with our reasons for the refusal.⁴

Licences are issued subject to such conditions as are decided by us.⁵ A copy of each licence issued by the commission is published on our [website](#).

³ Section 30(a) of the *Electricity Industry Act 2000* and section 39(a) of the *Gas Industry Act 2001*.

⁴ Section 19(8) of the *Electricity Industry Act 2000* and section 26(4) of the *Gas Industry Act 2001*.

⁵ See section 20(2) of the *Electricity Industry Act 2000* and section 28(2) of the *Gas Industry Act 2001*.

The licence assessment process

4. Information required in an application

We may grant or refuse a licence application for any reason we consider appropriate, having regard to our objectives under the ESC Act, the *Electricity Industry Act 2000* and/or *Gas Industry Act 2001*.⁶

Consistent with our objectives, an applicant's technical capacity and financial viability are central to the consideration of a licence application. We will also consider whether an applicant is a fit and proper person to hold a licence.

The applicant must complete the relevant [application form](#) available on our website.

An applicant is required to provide sufficient information to enable the commission to understand the activities it is proposing to undertake. Applicants must also provide evidence to show that it can meet the statutory criteria for the commission to grant a licence. This may include independent verification that the applicant has the technical capacity to comply with the conditions of the licence and all applicable regulatory requirements, and is financially capable of commencing and sustaining the relevant licensable activity.

It is the applicant's responsibility to ensure that it provides us with accurate and relevant material. Applicants should not rely on us to search for or request information to support any application.

All applications are assessed on a case-by-case basis.

Important note: The information requirements set out in this guideline and relevant application forms are not intended to be an exhaustive list of the information that may ultimately be required by the commission in deciding a licence application. The commission may request further information at any stage prior to making a decision on the application for a licence. We may depart from the guideline and add additional steps to our assessment at our discretion where we consider it appropriate.

⁶ Section 19(1) of the *Electricity Industry Act 2000* and section 26 of the *Gas Industry Act 2001*.

4.1. Information about the applicant and proposed activities

Applicants must provide sufficient detail to demonstrate who they are, the activity or activities they propose to undertake, and the third parties involved with those activities.

Where significant control of an activity requiring a licence is contracted to another entity, the applicant will need to consider whether that entity may also require a licence.

4.2. Dispute resolution

Applicants applying for a retail or distribution (supply) licences must become a member of an approved dispute resolution body; the Energy and Water Ombudsman (Victoria) (EWOV). Applicants will need to provide supporting documents to demonstrate they are a member of EWOV or have approached EWOV about [joining the scheme](#).⁷

If the applicant is applying for an electricity transmission licence, we may require them to engage with EWOV regarding joining the dispute resolution scheme on a case-by-case basis. Generally, where a transmission licence applicant will seek to use powers under land access powers under Part 5 of the *Electricity Industry Act 2000*, we will consider a licence condition requiring the licensee to be a member of EWOV.

4.3. Energy Safe Victoria

Applicants must engage with Energy Safe Victoria regarding their proposed activities as part of their licence application and provide the commission with information or documentation to demonstrate this engagement.

4.4. Technical capacity

Our assessment of technical capacity falls within three broad categories:

- the capacity to operate and manage the relevant business
- the capacity to comply with the licence conditions, and
- the capacity to comply with relevant regulatory obligations, including legislation, codes of practice and other regulatory requirements.

⁷ Becoming a member of the Energy and Water Ombudsman (Victoria): <https://www.ewov.com.au/members/joining-ewov>

Information required in an application

The applicant must demonstrate that it has the organisational capability to satisfy these requirements. The applicant is required to provide information that demonstrates:

- it has the business skills, knowledge, personnel, systems and ability to operate the relevant business, and
- it has the capacity to manage risk (including wholesale market risk management for retail activities) and to operate an effective and functional risk management and compliance system consistent with the relevant Australian or International Standards.

If an applicant intends to meet any material aspect of the technical capacity requirements by the use of contractors (including contracts with related entities), it must provide information on the contractors' experience and expertise, and copies of executed contracts. Our assessment of technical capacity will also consider the applicant's **internal** resources, skills and experience in managing third party contracts to ensure there are appropriate governance arrangements and capability for the licensee to be compliant with the energy rules – including in relation to activities proposed to be carried out on its behalf by third parties.

Depending on the nature of the contractual relationship and the services being performed by entities other than the applicant, it may be necessary for these other entities to also be licensed in accordance with section 16 of the *Electricity Industry Act 2000* or section 22 of the *Gas Industry Act 2001*. For example, if a generator engages another entity to sell its electricity through the National Electricity Market, then the other entity may require a licence to sell electricity through the wholesale market.

Our assessment of technical capacity for retail licence applications includes the applicant's ability to support customers experiencing vulnerability (where the applicant is seeking to sell energy to residential or small business customers). Applicants need to demonstrate a full understanding of their obligations to support customers experiencing vulnerability, including their obligations under the payment difficulty framework, protections for customers affected by family violence, and protections for customers who require life support equipment.

4.5. Financial viability

Consistent with the requirements under the *Electricity Industry Act 2000*, the commission must not grant an application for the issue of a licence to sell electricity unless the commission is satisfied that, in the case of an application to sell electricity, the applicant is financially viable.⁸

⁸ Section 19(2) of the *Electricity Industry Act 2000*.

Information required in an application

Although the *Gas Industry Act 2001* does not contain the equivalent provisions, for consistency, the commission assesses gas retail applications in the same manner.⁹

The commission does not have to be satisfied as to the electricity retail licence applicant's financial viability if the applicant is applying for a licence which includes a condition requiring compliance with the National Electricity Rules (which include prudential requirements).

At times, depending on the particular circumstances, we may undertake a financial viability assessment of generation, transmission and distribution licence applications if we consider it appropriate to do so. We will notify applicants for these types of licences if we require financial viability information. These types of licensable activities may also need to meet the strict prudential requirements of the Australian Energy Market Operator.

Point in time assessment

Our financial viability assessment for a licence application is limited to a point in time and should not be taken as an assessment of the licensee's ongoing financial capacity should the licence be granted. The assessment that is undertaken is only for the purpose of the licence application and should not be relied upon for any other purpose by any person.

Where a financial viability assessment is required – retail applications

Retail licence applications where the applicant intends to sell electricity or gas is subject to a financial viability assessment. This includes where the applicant intends to sell electricity or gas to residential customers or small, medium or large business customers.

Information requirements – retail applications

In assessing whether a retail applicant is financially viable, the applicant is required to demonstrate that it has sufficient financial resources to:

- commence and sustainably operate the retail business
- meet the service standards for customers and comply with the regulatory framework
- manage financial shocks in the wholesale market and associated increases in operating costs.

This includes operating cost considerations, including demonstrating the applicant can meet significantly increased prudential costs – we expect detailed, itemised costs.

⁹ The objectives of the commission include, to the extent that it is efficient and practicable to do so, to promote a consistent regulatory approach between the electricity industry and the gas industry (section 10(a), *Electricity Industry Act 2000*; section 18(a) *Gas Industry Act 2001*).

Information required in an application

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. This includes operating cost considerations, including demonstrating the applicant can meet significantly increased prudential costs – detailed, itemised costs must be provided.

The applicant must provide evidence that it has sufficient financial resources demonstrating that it has the ability to meet higher costs, including adequate liquid financial reserves to meet higher unforeseen costs, such as higher wholesale costs and increased AEMO prudential requirements.

The applicant must demonstrate a clear understanding of the wide-ranging effects of the identified risk and potential changes to its business and set out appropriate risk mitigation measures.

Risk mitigation measures may include evidence of available cash reserves, including bank balances, loan guarantees and the like to ensure the business is able to continue as an active participant by servicing all existing customers and continuing to grow its customer base.

Applicants should also consider whether other risk mitigation measures may be necessary to manage risks to the business, such as changes to the organisational and technical capacity of the business.

Required documentation to demonstrate financial viability

The material that the commission requests of applicants may vary depending on several factors. This generally includes but is not limited to:

- audited financial statements
- annual reports
- guarantees in place
- shareholder registers
- statements from banks/financiers, shareholders, the board or parent company
- financial and business growth modelling.

Refer to the energy retail licence application form for detail on the financial viability information retail applicants must provide.

4.6. Commission objectives

In deciding whether to grant or refuse a licence application, we must consider our statutory objectives under the *Essential Services Commission Act 2001*, *Electricity Industry Act 2000* and *Gas Industry Act 2001*.

The commission's primary objective under the *Essential Services Commission Act 2001*, when performing our functions and exercising our powers, is to promote the long-term interests of

Information required in an application

Victorian consumers. In seeking to achieve this objective, we must have regard to the price, quality and reliability of essential services and the matters under section 8A of the *Essential Services Commission Act 2001* to the extent they are relevant.

An applicant must clearly demonstrate how its entry into the market is consistent with the commission's statutory objectives.

Applicants must provide a statement regarding why granting a licence would address the objectives outlined in:

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

Refer to the relevant licence application form for more detail on the commission's objectives.

4.7. Fit and proper person

We will consider whether the applicant is a fit and proper person to hold a Victorian electricity or gas industry licence in deciding whether to grant or refuse a licence application.

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.

In considering an applicant's suitability to hold an energy licence, we will also consider the conduct of directors, office holders or any person with significant managerial duties or influence in the applicant. We may also consider the conduct of related bodies corporate or entities that can exert control over the applicant.

We require applicants to disclose any conduct or event relating to the following broad areas:

- bankruptcy and insolvency
- disqualification from managing a company
- criminal prosecutions
- prosecutions or enforcement action taken under relevant laws
- refused licence applications or licences that have been restricted, suspended or revoked
- material failures to comply with regulatory requirements
- current investigations by any other regulator.

Information required in an application

Disclosure of one or more matters will not automatically lead us to conclude that the applicant is not fit and proper to hold a Victorian energy licence. We will consider a number of factors when a disclosure is made, such as the seriousness of the matter and the impact on consumers, the egregiousness of the conduct (for example, where the conduct involved dishonesty or a deliberate attempt to mislead, this will be viewed more seriously), when the conduct occurred and the applicant's subsequent conduct.

4.8. Policies

Applicants applying for a retail licence involving the sale of energy to residential customers must provide a financial hardship policy, family violence policy and life support policy with their application.

5. Licence variation, transfer and revocation

5.1. Variation

A licence may be varied:¹⁰

- in accordance with the procedures set out in the licence, or
- by agreement between the commission and the licensee, or
- by written notice from us provided that the commission is satisfied that the variation is necessary and that the commission has given the licensee an opportunity to make representations on the matter.

Where a licensee requests that we vary its licence or licence conditions, the licensee should provide sufficient information to enable us to assess the impact and significance of the variation to the current licensing arrangements. For example, where an applicant seeks to expand the scope of permitted activities to include the sale of energy to residential or small business customers, it will need to submit information and documents to the commission in line with the requirements of the energy retail licence application form. This includes information and documents to demonstrate that it has the technical capacity and is financially viable to undertake the activities sought via the licence variation application.

5.2. Transfer

After a licence is granted, a licensee may apply to us to approve the transfer of its licence to another legal person.¹¹

Applications must be in writing and must include written confirmation from the transferee setting out its formal consent to the transfer.

The licensee must obtain and provide from the transferee all relevant information and necessary declarations set out in this guideline and use the relevant application form as if it was applying for a new licence.

A transfer of licence application must also be accompanied by a declaration in the form set out in this guideline.

¹⁰ See sections 29(1) and (2) and 29A of the *Electricity Industry Act 2000* and sections 38(1) and (2) and 38A of the *Gas Industry Act 2001*.

¹¹ See section 31 of the *Electricity Industry Act 2000* and section 40 of the *Gas Industry Act 2001*.

5.3. Revocation

The commission has a broad discretion to revoke a licence. In addition (and without limiting this discretion), licences specify procedures in accordance with which licences may be revoked.

Generally, the commission may revoke a licence:

- at any time by agreement with the licensee or
- in accordance with the *Electricity Industry Act 2000* or *Gas Industry Act 2001* (as applicable).

The commission recognises that revocation of a licence is a serious matter and may have significant consequences for the relevant licensee. As such, the commission will regard revocation of a licence, where it is not by agreement, to be a last resort measure.

6. Licence exemptions and trial waivers

Licence exemptions

Section 17 of the *Electricity Industry Act 2000* and section 24 of the *Gas Industry Act 2001* provide that a person may be exempted from the requirement to obtain a licence. Exemptions are made by an Order issued by the Governor in Council.

Exemptions may be of an individual or general application.

A person may be exempted from the requirement to obtain an electricity licence if they meet the conditions of the [General Exemption Order](#). The General Exemption Order only applies to electricity activities, not the sale or supply of gas.

Persons who are exempted from holding a licence under the General Exemption Order have obligations which include:

- registering their exemption with us (in most circumstances)¹²
- [becoming a member of the Energy and Water Ombudsman \(Victoria\)](#)
- complying with relevant sections of the Energy Retail Code of Practice, Electricity Distribution Code of Practice and General Exemption Order.

If the applicant considers it is exempted from holding an electricity licence, the applicant should refer to the General Exemption Order to understand whether the activities fall within the scope of that exemption and what obligations may apply.

We have more information about licence exemptions on our [website](#).

Trial waivers

Victoria's regulatory sandboxing framework commenced on 1 June 2022.

New provisions in the *Electricity Industry Act 2000*, the *Gas Industry Act 2001* and the *Essential Services Commission Act 2001* provide the commission new powers to grant a time-limited trial waiver to innovators who sell, supply, generate or transmit electricity or gas. This will allow the trialling of innovative technologies, approaches, business models, products and services in the

¹² Unless the exemption is deemed, in which case it automatically applies and does not need to be registered with the commission.

Exemptions and trial waivers

Victorian energy market, in a controlled setting, and help inform whether permanent changes to particular energy rules would benefit Victorian consumers.

Trial waivers operate alongside licences and licence exemptions as a distinct authorisation category that enables entry into Victoria's energy market.

We have more information about trial waivers and regulatory sandboxing on our [website](#).

7. Obligations once granted a licence

7.1. Ongoing obligations

Licences are issued subject to such conditions that are deemed to apply under the Industry Acts and those that are decided by the commission.

A copy of each licence we have issued can be found on [our website](#).

Licensees are required to comply with applicable regulatory instruments overseen by the commission and Energy Safe Victoria and the commission's codes of practice and guidelines which are published on [our website](#).

Licence conditions require the licensee to maintain ongoing technical capacity and financial viability (where applicable).

Licensees must notify us

where there is a change of control of the licensee (for example, where the licensee is purchased by another legal entity).

Licensees must maintain comprehensive records regarding any activities undertaken pursuant to their licence for the periods specified in any licence conditions or applicable codes of practice. The licensee must provide the commission, as soon as reasonably practicable, with such information relating to activities undertaken pursuant to the licence as the commission may properly request.

7.2. Annual licence fees

Holding an electricity or gas licence incurs annual licence fees. These fees and charges are determined by the Minister for Energy, Environment and Climate change in consultation with the Minister administering the *Essential Services Commission Act 2001*.¹³ The fees have been set for the years 2022-23 to 2025-26.¹⁴

¹³ See section 22 of the *Electricity Industry Act 2000* and section 30 of the *Gas Industry Act 2001*.

¹⁴ See Notice of Determination under section 22 of the *Electricity Industry Act 2000* and section 30 of the *Gas Industry Act 2001*, GG S254, 24 May 2022, available at: <http://www.gazette.vic.gov.au/gazette/Gazettes2022/GG2022S254.pdf>, for further information including how licensees are required to assess customer numbers.

Obligations once granted a licence

Electricity licence fees

Type of licence	2022-23	2023-24	2024-25	2025-26
Retail licence volume fee (per customer)	\$2.0399	\$2.0112	\$1.9829	\$1.9549
Retail licence base fee	\$9,076	\$9,303	\$9,535	\$9,773
Distribution licence volume fee (per customer)	\$0.9817	\$0.9684	\$0.9553	\$0.9424
Generation licence base fee – less than 200 megawatts capacity in respect of the licence in the financial year	\$3,977	\$4,068	\$4,161	\$4,256
Generation licence base fee – 200 to 999 megawatts capacity in relation to the licence in the financial year	\$11,931	\$12,203	\$12,482	\$12,768
Generation licence base fee – More than 999 megawatts capacity in relation to the licence in the financial year	\$19,885	\$20,338	\$20,804	\$21,280
Transmission licence base fee – interconnector	\$65,331	\$65,557	\$65,790	\$66,028
Transmission licence base fee – statewide	\$130,661	\$131,115	\$131,580	\$132,057
Wholesale licence base fee	\$3,630	\$3,721	\$3,814	\$3,909

Gas licence fees

Type of licence	2022-23	2023-24	2024-25	2025-26
Retail licence volume fee (per customer)	\$2.0399	\$2.0112	\$1.9829	\$1.9549
Retail licence base fee	\$9,076	\$9,303	\$9,535	\$9,773
Distribution licence volume fee (per customer)	\$0.3333	\$0.3284	\$0.3235	\$0.3187

Obligations once granted a licence

7.3. Application for licence transfer

A transfer of licence application must be accompanied by a declaration in the form set out below:

Transfer licence	
Section 31 of the <i>Electricity Industry Act 2000</i> or section 40 of the <i>Gas Industry Act 2001</i>	
Upon the approval of the Essential Services Commission, the Transferor transfers to the Transferee the estate and interest in the Licence described for the consideration expressed.	
Licence:	
Consideration (\$)	
Transferor:	
Transferee:	
Date:	
Execution and attestation	
Transferor:	Transferee:

Obligations once granted a licence

Document version control

The CM reference for this document is: C/23/2709

Version	Updates made	Date published
1.0	First release.	14 June 2019
1.1	Update to process and addition of application form.	9 December 2020
1.2	Update to process, information requirements and licence fees.	18 August 2022
1.3	Update to the information requirements regarding technical capacity and financial viability for electricity and gas retail licence applications.	10 March 2023