

Revised template for electricity distribution licence (for consultation)

[Licensee name], [Licensee ACN]

Varied on [date]



Electricity Distribution Licence

This Licence is issued pursuant to section 19 of the *Electricity Industry Act 2000*.

Date

This Licence was last varied on [date] with effect from [date].

Licensee

This Licence is issued to:

[Licensee name] (Licensee ACN) (the Licensee)

[Licensee business address]

THE COMMON SEAL of the)
ESSENTIAL SERVICES COMMISSION)
was affixed pursuant to the authority)
of the Commission on [date])

.....
Kate Symons

CHAIRPERSON

Part A – Interpretation

1 Definitions

1.1 Unless the contrary intention appears, a term has the meaning shown opposite it:

Act	the <i>Electricity Industry Act 2000</i> .
Administrator	an administrator appointed by the Commission under section 34 of the Act in respect of the Licensee's Distribution Business.
AEMO	the Australian Energy Market Operator Limited (ACN 072 010 327).
Business Day	a day other than a Saturday, Sunday or a public holiday in Victoria.
Change of Control	occurs in relation to the Licensee if: (a) an entity that Controls the Licensee ceases to Control the Licensee; or (b) an entity that does not Control the Licensee starts to Control the Licensee provided that no change of Control will be deemed to have occurred where the Ultimate Holding Company that Controls the Licensee remains the same or the change in Control results from the acquisition or cancellation of, or dealing in, securities which are traded on a recognised financial market.
Commission	the Essential Services Commission established under the ESC Act.
Control	has the same meaning given in section 50AA of the <i>Corporations Act 2001</i> (Cth).
Code of Practice	a Code of Practice applying under Part 6 of the ESC Act or relevant legislation.
Distribution Area	the area described in Schedule 1.
Distributor	a person who holds a licence to distribute or supply electricity under the Act.
Entity	has the same meaning given in section 64A of the <i>Corporations Act 2001</i> (Cth).
ESC Act	the <i>Essential Services Commission Act 2001</i> .
Licensee	[Name] (ACN).
Minister	the person who is, from time to time, the Minister administering the Act.

National Electricity Law	the National Electricity (Victoria) Law as in force in Victoria under the <i>National Electricity (Victoria) Act 2005</i> .
National Electricity Rules	the National Electricity Rules as in force from time to time under the National Electricity Law.
Objectives	the objectives specified in section 10 of the Act and section 8 of the ESC Act.
Retailer	a person who holds, or is exempt from holding, a licence to sell electricity under the Act.
Supply Points	in relation to the distribution or supply of electricity to a person, the point at which a supply of electricity last leaves a supply facility owned or operated by a Distributor before being supplied to the person, whether or not the electricity passes through facilities owned or operated by another person after leaving that point before being so supplied.
Ultimate Holding Company	has the same meaning given in section 9 of the Corporations Act 2001 (Cth).
Use of System Agreement	an agreement between a Retailer (or person who has made an application for a licence to retail electricity) and a Distributor which is necessary to ensure that, subject to the Act, electricity is distributed or supplied by means of the Distributor's distribution system to the extent necessary to enable the Retailer (or other person) to sell electricity to its customers.

- 1.2. In this Licence, unless the context otherwise requires:
- i. headings and footnotes are each for convenience only and do not affect the interpretation of this Licence;
 - ii. words importing the singular include the plural and vice versa;
 - iii. words importing a gender include any gender;
 - iv. an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
 - v. a reference to a condition, clause, or part is to a condition, clause, or part of this Licence;
 - vi. a reference to any statute including the Act and regulation, proclamation, Order in Council, **ministerial order**, ordinance, code, guideline, procedure or by-law includes all statutes, regulations, proclamations, Orders in Council, **ministerial orders**, ordinances, codes, guidelines, procedures or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, Orders in Council, **ministerial orders**, ordinances, by-laws and determinations issued under that statute;
 - vii. a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;

- viii. a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- ix. other parts of speech and grammatical forms of a word or phrase defined in this Licence have a corresponding meaning;
- x. a period of time:
 - 1. which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
 - 2. which commences on a given day or the day of an act or event is to be calculated inclusive of that day;
- xi. an event which is required under this Licence to occur on or by a stipulated day which is not a Business Day may occur on or by the next Business Day.

2 Notices

2.1 A notice under this Licence is only effective if it is in writing, and dealt with as follows:

- i. if given by the Licensee to the Commission – addressed to the Chief Executive Officer of the Commission at the address specified below or as otherwise notified by the Commission:

Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000
licences@esc.vic.gov.au

- ii. if given by the Commission to the Licensee – given by the Chief Executive Officer of the Commission and addressed (and marked for attention of) the Chief Executive Officer of the Licensee (or such equivalent position) at the address specified below or as otherwise notified by the Licensee:

[Licensee name, physical address and email address]

2.2 A notice is to be:

- i. signed by or on behalf of the person giving the notice and delivered by hand; or
- ii. signed by or on behalf of the person giving the notice and sent by pre-paid post; or
- iii. transmitted electronically by or on behalf of the person giving the notice by electronic mail or facsimile transmission.

2.3 A notice is deemed to be effected:

- i. if delivered by hand – upon delivery to the relevant address;
- ii. if sent by post, **four Business Days after the date of posting, unless evidence is adduced to the contrary;**
- iii. if transmitted electronically – in accordance with the Electronic Transactions (Victoria) Act 2000.

2.4 A notice received after 5.00pm, or on a day that is not a Business Day, is deemed to be effected on the next Business Day.

Part B – Licence

3 Grant of the licence

- 3.1 Subject to clauses 3.2 and 3.3, in exercise of its powers under section 19 of the Act, the Commission grants the Licensee a licence to distribute **or supply** electricity on the terms and conditions set out in this Licence.
- 3.2 This Licence only permits the Licensee to distribute **or supply** electricity to Supply Points located in the Licensee's Distribution Area.
- 3.3 The Licensee was first granted a licence to distribute **or supply** electricity on 3 October 1994 and the licence has been varied on the dates set out in Schedule 2.

4 Variation

- 4.1 **The Commission may vary this licence in accordance with section 29 of the Act.**

5 Transfer

- 5.1 This licence may be transferred in accordance with section 31 of the Act.

6 Revocation

- 6.1 The Commission may revoke this Licence:
- i. at any time at the request of, or with the consent of, the Licensee; or
 - ii. in accordance with the Act.
- 6.2 **Where the Commission proposes to revoke this Licence, the Commission will issue a notice to the Licensee, specifying:**
- i. **the basis upon which the Commission proposes to revoke the Licence;**
 - ii. **the date upon which the revocation is proposed to take effect, such date to be no less than 20 Business Days after the date upon which the notice is issued; and**
 - iii. **that the Licensee has the opportunity to make representations on the matter and the time and date and manner in which those representations must be made.**
- 6.3 **The Commission must consider any submissions received by the Licensee prior to making a decision to revoke the licence.**

- 6.4 Where the Commission decides to revoke this Licence, the Commission will issue a notice to the Licensee specifying:
- i. the basis upon which the Commission is revoking the Licence; and
 - ii. the date upon which the revocation takes effect, being no earlier than the date specified in the notice issued pursuant to clause 6.2;
- and this Licence will be revoked on the date specified in the notice.

Part C – Licence Conditions

7 Status of the requirements in this Part

- 7.1 A failure by the Licensee to meet any of the requirements set out in this Part C is a breach of a civil penalty requirement for the purpose of the ESC Act.

8 Payment of fees

- 8.1 The Licensee must pay a licence fee as determined by the Minister in accordance with the provisions of section 22 of the Act.

9 Change of control

- 9.1 The Licensee must give the Commission a notice in writing if any event occurs, any decision by the Licensee is made, or any other circumstance exists that will effect a Change of Control of the Licensee.
- 9.2 The notice required under clause 9.1 must set out particulars of the relevant event, decision or circumstance and be given to the Commission as soon as practicable and in any case not later than 3 Business Days after the Licensee becomes aware of the event or circumstances or makes the decision.

10 Compliance with regulatory instruments

- 10.1 The Licensee must comply with any procedure or guideline issued by the Commission from time to time that is expressed as being one with which the Licensee must comply, to the extent it is applicable to activities undertaken by the Licensee pursuant to its Licence.
- 10.2 The Licensee must have in place a system for monitoring its compliance with its Licence, any applicable Code of Practice and the Act.

11 Use of system agreements

11.1 The Licensee must enter into a Use of System Agreement with each Retailer in accordance with the requirements of the Electricity Distribution Code of Practice.

12 Provision of information to the Commission

12.1 Except where expressly provided to the contrary in a Code of Practice, the Licensee must maintain comprehensive records regarding any activities undertaken pursuant to this Licence for a period of at least 7 years.

12.2 The Licensee must provide to the Commission, in the manner and form decided by the Commission, such information as the Commission may from time to time require.

Note: The conditions identified in Part C of this Licence are not an exhaustive list of a Licensee's obligations. A licensee is required to comply with additional obligations as set out in the Act and instruments made under that Act. In addition, obligations are placed on the Licensee in Codes of Practice, in particular the Electricity Distribution Code of Practice.

Schedule 1: Distribution Area

[insert the distribution area as presently contained in Schedule 2 to current licences]

Schedule 2: Variations to this licence

[Extract previous variations as set out in Schedule 3 to the existing licences]

Date	Variation
[Date]	To update the licences to reflect developments arising from the transition of the Electricity Distribution Code to a code of practice, specifically the remaking of the Electricity Distribution Code of Practice on [date].