



Electricity

Application form for the variation of an Electricity Generation Licence

by the Essential Services Commission of SA under
the *Electricity Act 1996*

July 2022

OFFICIAL

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Glossary of terms

Commission	Essential Services Commission, established under the <i>Essential Services Commission Act 2002</i>
<i>ESC Act</i>	<i>Essential Services Commission Act 2002</i>
Treasurer	Treasurer for the South Australian Government
Minister	Minister for Energy and Mining
Regulator	Technical Regulator

Licence variations and conditions

As part of the Essential Services Commission's (**Commission**) licensing function, it has the power to vary conditions imposed on a licence it has issued. Where an existing licensee intends to operate a generation plant that is not currently authorised under the Act, or to change the type or nature of the generation plant authorised by its licence, a licence variation may be sought from the Commission pursuant to section 27 of the *Electricity Act (1996)* (**Electricity Act**). This form may be completed by persons making an application to the Commission for the variation of a licence to authorise electricity generation operations in the electricity supply industry in South Australia.

Under section 27 of the *Electricity Act*, the Commission also has the power to vary a licence at any time, subject to statutory procedural requirements, including providing a licensee with reasonable notice of a proposed variation and allowing it the opportunity to make representations on that variation.

There are a broad range of factors that might be potential 'triggers' for the Commission to consider varying a licence, or adding new conditions. These include factors both external and internal to a licensee, and may include (without limitation):

- ▶ material changes in market operations, outcomes or structures
- ▶ changes to applicable national or State legislation, rules or policy
- ▶ the findings of a formal inquiry undertaken by the Commission
- ▶ substantive changes to operations which would have a genuine connection to, or impact on, the operations authorised under a licence
- ▶ an application by a licensee to vary its licence (for example, to add a new generation plant or equipment or increase the capacity of the existing generation plant), and
- ▶ evidence of upgrades or material changes to a licensee's business or operational practices relating to the generation plant and equipment authorised under a licence.

In considering a potential licence variation, the Commission must consider the factors specified in section 6 of the *Esc Act* (which sets out the Commission's primary statutory objective and other relevant considerations), the objects of the *Electricity Act* (as set out in section 3 of that Act). It will also be informed by any information submitted by a licensee to which the variation may apply, through public consultation and by engagement with regulatory agencies involved in the electricity supply industry.

Generation operations which require a licence

Section 15(2)(a) of the Act ¹ is explicit in that it requires a person that carries on the operation of the generation of electricity to hold a licence. This requirement applies to all generators, with the exception of a generator that can rely on:

- ▶ one of the statutory exemptions specified in the *Electricity (General) Regulations 1997* (**Regulations**) outlined below
- ▶ an individual exemption issued by the Commission (with the approval of the Minister) pursuant to section 80(1) of the *Electricity Act*, or

¹ Available at <https://www.legislation.sa.gov.au/LZ/C/A/ELECTRICITY%20ACT%201996.aspx>

- ▶ an exemption made by Governor under a regulation pursuant to section 98(2)(e) of the *Electricity Act*.

Pursuant to Regulations 6(1) and (2), the following generators are exempt from the requirement to hold a generation licence:

- ▶ a generator whose generating plant has a rated nameplate output of 100kVA or less
- ▶ a generator that does not supply electricity for reward to, or by means of, a transmission or distribution network
- ▶ a generator that generates electricity for the sole consumption of that generator or a designated body (such bodies must be designated by the Minister²), or
- ▶ a generator that generates electricity for a person at a premises occupied or used by the person as a tenant or licensee (whether directly or indirectly) of the generator (or a designated body) where that person is not charged for the supply of electricity except by a licensed retailer/generator or as an unspecified part of rent or charges for the occupation or use of the premises.

It is important for generators (or proposed generators) to carefully consider whether they can rely on a statutory exemption from the requirement to be licensed. If the reliance on a statutory exemption is queried by the Commission, the onus to provide evidence that a particular exemption can be relied upon, is on the operator of the relevant generator.

In addition, in the event that the operations of a generator change so that it can no longer rely on one of the three exemptions specified above, it will need to apply to the Commission for a generation licence immediately in order to continue those operations.

Mandatory licence conditions

Sections 21(1) and 22 of the *Electricity Act* requires the Commission to place certain mandatory conditions in generation licences. The Commission strongly recommends that applicants review these mandatory conditions. Applicants must be familiar with the relevant conditions and confident that they can comply with the conditions.

Additional technical licence conditions

Additional technical licence conditions apply to all new electricity generators seeking to connect to the South Australian power system. Applicants for a generation licence should familiarise themselves with the Commission's "*Licensing arrangements for generators in South Australia*" final report, available on the Commission's website.³

Model licence conditions have been developed and are available in Attachment 1. The model conditions will be applicable to variation applications, having regard to advice from the Australian Energy Market Operator (**AEMO**) on the specific circumstances of individual applications received.

Depending on the specific characteristics of a given generation project, the model conditions may be varied to the degree necessary to ensure that South Australian consumers' long-term interests with respect to the price, quality and reliability of electricity services are protected.

² To date, the Minister for Energy and Mining has not designated any bodies for the purposes of Regulations 6(1).

³ Refer: <https://www.escosa.sa.gov.au/projects-and-publications/projects/electricity/licensing-arrangements-for-generators-in-south-australia>

How to apply for a generation licence variation

This form may be completed by persons making application to the Commission for the variation of a licence to authorise electricity generation operations in the electricity supply industry in South Australia.

It is essential that applicants read the Commission's Advisory Bulletin No 4 – "*Licensing Arrangements for the Electricity and Gas Supply Industries*" before they complete this form. This Bulletin is available on the Commission's website www.escosa.sa.gov.au under the headings Industry > Electricity > Licensing.

Use of this form and applicant's responsibilities

An application for a variation to an electricity generation licence can only be made by the holder of an existing generation licence.

For the purpose of this application form, reference to the term "Officer" include the applicant's directors and secretary, and other persons who make or participate in making decisions that affect a substantial part of the business of the applicant (e.g. Chief Executive Officer, Chief Financial Officer, General Manager etc.).

Applicants should list the information requested in the spaces provided in this form and enclose additional information where required. Applicants must take all reasonable steps to ensure the information provided in the application form is complete, true and correct and are required to make a declaration to that 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 suspension or cancellation of a licence at a later time.

Applicants are responsible for providing the Commission with current, accurate and relevant documentation. This will ensure that the application is processed promptly and without delay. 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.

Application fees

There is currently no application fee set for the variation of a licence.

Holding a licence incurs annual licence fees⁴ and the authorisation of additional generation operations may increase the annual licence fee to be paid. The licence fees determined by the Minister for Energy and Mining (**Minister**) are administered by the Commission. At annual intervals, the Commission, on behalf of the Minister, will send to each licensee, depending on the category within the sector, an invoice for the licence fee. Licence fees are to be paid on receipt of an invoice via one of the payment options set out in the invoice.

⁴ Available at <https://www.escosa.sa.gov.au/industry/electricity/licensing/licence-fees>

How to lodge an application

Applicants may send their completed application form electronically (preferred) or in writing to:

Electronically to: licensing@escosa.sa.gov.au

In writing to: Essential Services Commission of SA
GPO Box 2605
Adelaide SA 5001

Consultation and confidentiality

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

If applicants believe that they are providing confidential information when completing this form, they should write "this information is confidential" after any such information. It is the applicant's responsibility to ensure this is clearly highlighted on the form. Applicants should also provide a 'non-confidential' version of the form capable of publication on the Commission's website.

The Commission will use information supplied in applications and in support of applications in accordance with the requirements of Part 5 of the *Esc Act*. Applicants claiming confidentiality are encouraged to familiarise themselves with Part 5. Applicants should note that the Commission may disclose confidential information in some circumstances.

Further information

Applicants should note that the Commission may ask applicants who have submitted an application form to provide further information to the Commission, or to clarify the information that they have already provided, if required.

Please note that, in the event that an application lacks sufficient detail and the Commission is required to request additional information from an applicant, delays in the assessment of the application may occur.

Licence variation application form

1 The Applicant

(Applicants must answer all questions in this section)

1.1 Licence details

Please provide details of the licence for which a variation is sought (eg legal entity, ACN/ABN, authorised operations).

1.2 Contact person on behalf of applicant

The full name, title and contact details of a person to whom the Commission can direct enquiries and correspondence about the application.

Full name:

Title:

Business address:

State:

Post code:

Postal address (if different to Business address):

State:

Post code:

Telephone:

Facsimile:

E-mail:

1.3 Contact person for compliance matter and reporting

The full name and/or title of the person to whom the Commission can direct enquiries and correspondence about compliance matters and annual reporting responsibilities.

Full name:

Title:

Business address:

State:

Post code:

Postal address (if different to Business address):

State:

Post code:

Telephone:

Facsimile:

E-mail:

1.4 Diagram of corporate or other structure

Has the corporate or other structure changed, since the last variation or issue of the licence?
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YES	NO
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If **NO**, proceed to next question.

If **YES**, please attach with this application form details of the corporate or other structure, including details of any related companies within the meaning of the *Corporations Act 2001 (Corporations Act)*, together with a diagram of the organisational chart, including composition of the board, management and other key personnel responsible for the key functions of the business.

2 Variation application

(Applicants must answer all questions in this section)

2.1 Date from which variation is sought

Applicants should usually allow the Commission a minimum of 16 weeks to consider a variation application, as a public consultation period of four weeks forms part of the Commission's consideration of variation applications. If the applicant seeks to have the licence varied by a certain date, provide this date. Please note that the Commission does not undertake to vary the licence by this date.

2.2 Nature and scope of operations for which the variation is sought

Applicants for a generation licence variation must state the location of the generation plant, the expected nameplate capacity and, where applicable, the maximum export levels of the generation plant, the type of generation and fuel used and some details about how the generator is to be connected to the network. Applicants for a wind generation licence must attach a map showing the location of the wind turbines. This information must correspond to the relevant connection agreement.

3 Suitability of applicant to hold a licence

(Applicants must answer all questions in this section)

3.1 Standard of honesty and integrity shown by applicant

In deciding whether the applicant is a suitable person to hold a licence, the Commission may:

- ▶ consider the applicant's previous commercial and other dealings, and
- ▶ the standard of honesty and integrity shown in those dealings.

Has there been a change in the standard of honesty and integrity shown by applicant since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, please provide information that will assist the Commission in its consideration of this matter.
If the applicant:

- ▶ has been found guilty of any criminal offence
- ▶ has been successfully prosecuted under any Territory, State or Commonwealth legislation (such as the *Australian Securities and Investments Commission Act 2001* or the *Competition and Consumer Act 2010*)
- ▶ has been the subject of disciplinary action, or
- ▶ has been the subject of any past or present administrative or legal actions in relation to an authorisation, authority, or licence in any industry,

Details of such matters must be disclosed. Failure to disclose such information or misrepresent any matter relevant to such information may result in the cancellation of a licence.

The Commission may use the service of an external expert to assist with the assessment of the applicant's standard of honesty and integrity.

3.2 Standard of honesty and integrity shown by officers and major shareholders of the applicant

Has there been a change in the standard of honesty and integrity shown by officers and major shareholders of the applicant, since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, applicants should address responses to this question in the same manner as 3.1 above except where it relates to officers and major shareholders of the applicant.

Please also supply details of any policies and procedures addressing the probity and competence of officers and other key management staff.

3.3 Names and addresses of the officers of the applicant

Has there been a change in the names and addresses of the applicant since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, state the names and addresses of the officers of the applicant. "Officers" of the applicant include the applicant's directors and secretary, and other persons who make or participate in making decisions that affect a substantial part of the business of the applicant.

Full name:

Date of birth:

Office held:

Address:

State:

Post code:

Full name:

Date of birth:

Office held:

Address:

State:

Post code:

Full name:

Date of birth:

Office held:

Address:

State:

Post code:

(Attach additional pages if necessary)

3.4 Names and addresses of major shareholders of applicant

Has there been a change in the names and addresses of major shareholders of the applicant since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, state the full names and addresses of the major shareholders of the applicant

Name:

Date of birth (if applicable):

Office held (if applicable):

Address:

State:

Post code:

Name:

Date of birth (if applicable):

Office held (if applicable):

Address:

State:

Post code:

Name:

Date of birth (if applicable):

Office held (if applicable):

Address:

State:

Post code:

(Attach additional pages if necessary)

3.5 Details of the group members

Has there been a change in the details of the group members since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, please include information about entities controlled by the applicant, or by the ultimate parent entity of the applicant (if applicable).

3.6 Additional information

Has there been a change in the additional information provided since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, please answer the following questions.

Is the applicant a resident of, or does it have permanent establishment in, Australia? Where the answer to this question is no, please provide further detail.

Is the applicant under external administration (as defined in the *Corporations Act*) or under a similar form of administration under any laws applicable to it in any jurisdiction? Where the answer to this question is yes, please provide further detail.

Is the applicant immune from suit in respect of the obligations under the *Electricity Act*? Where the answer to this question is yes, please provide further detail.

Is the applicant capable of being sued in its own name in a court of Australia? Where the answer to this question is no, please provide further detail.

(Attach additional pages if necessary)

3.7 Financial resources available to the applicant

Updated financial information must be provided by the applicant to support the variation application if:

- ▶ information about the financial resources available to the applicant has not been provided to the Commission in the last 12 months, or
- ▶ there has been a material change to the financial resources available to the applicant since information has been provided to the Commission in the last 12 months.

In the last 12 months, has the applicant provided information to the Commission that accurately reflects the financial resources currently available to the applicant?

YES

NO

If **YES**, proceed to next question.

If **NO**, provide information about the financial resources available to the applicant. If the applicant is a company, please also enclose:

- ▶ copies of all audited profit and loss statements and balance sheets for the last three financial years (including all notes)
- ▶ director's declaration that the financial statements comply with accounting standards, give a true and fair view, have been made in accordance with the *Corporations Act* and that there are reasonable grounds to believe the company/entity will be able to pay its debts as and when they fall due, and
- ▶ the director's report and the audit opinion.

If the applicant is a subsidiary company, please also provide:

- ▶ copies of all audited profit and loss statements and balance sheets of the applicant’s parent company for up to the last three financial years.

The applicant should also submit copies of:

- ▶ its business plans including at least strategic direction and objectives, identified opportunities in the market place and forecast results, and
- ▶ evidence of capital and liquidity support in place, including any bank or cross guarantees, to support the business and evidence of negotiations with the network service provider concerning credit support arrangements.

3.8 Additional details of structure of applicant

Has there been a change in the structure of applicant since the last variation or issue of the licence?	
YES	NO

If **NO**, proceed to next question.

If **YES**, if the applicant is part of a group of related companies, and/or party to a partnership, joint venture or alliance agreement with another company, please provide:

- ▶ contractual arrangements (e.g. alliance contracts, associate contracts, establishment contracts) that define relationships within the group – including shared resources, guarantees, revenue flows, obligations and or responsibilities.

3.9 Human resources available to the applicant

Provide information about the human resources available to the applicant. This includes:

- ▶ the experience and qualifications of those employees outlined in the organisational chart (see point 1.3), and
- ▶ if the applicant will employ contractor/s to assist with the licensed operations, the name of that contractor/s, details about the experience of the contractor/s in such operations and details of the processes in place to ensure the contractor/s complies with the regulatory obligations imposed by the licence.

(Attach additional pages if necessary)

3.10 Technical resources available to the applicant

Applicants for a generation licence variation are asked to provide details about the availability of technical resources to be used in carrying out the operations for which a variation is sought. The information should include details about the technically qualified staff available to the applicant and (if relevant) details of experience gained in similar operations.

Where applicants are relying on a third party to provide staff and resources to meet the technical requirements of the generation licence, please provide:

- ▶ a list of all functions and activities being proposed to outsource
- ▶ details of any formal agreement/s to provide services, including confirmation that the third party possess relevant technical competencies to conduct the proposed activities
- ▶ a summary of the third party's technical capacity to meet relevant obligations, including relevant accreditations, and
- ▶ a summary of the third party's experience and knowledge in the relevant area.

(Attach additional pages if necessary)

3.11 Quality of electricity produced/connection agreement

The Commission may not vary a generation licence unless it is satisfied that the generating plant (or proposed generating plant) will generate electricity of the appropriate quality for the relevant transmission or distribution network. The Commission will be satisfied that the electricity is of an appropriate quality if the applicant has entered into a connection agreement, which meets the Commission's technical requirements with the licensed operator of the relevant transmission or distribution network. Applicants are therefore required to submit a copy of such a connection agreement.

(Attach additional pages if necessary)

3.12 Risk management

Provide confirmation and reasonable evidence that the applicant's management has identified the risks associated with electricity operations and has established, utilises and relies 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 should be submitted.

(Attach additional pages if necessary)

3.13 Planning, Development and Infrastructure Act approval

Please advise if the applicant has or is applying for approval under the *Planning, Development and Infrastructure Act 2016* (SA). If so, provide details, including the date on which approval was or will be granted.

(Attach additional pages if necessary)

3.14 Registration with AEMO

Please advise if the applicant will apply to register with AEMO in respect of the new generating plant. If so, provide details. Applicants should note that registration as a semi-scheduled market participant is required for all expansions to existing wind generation plant.

3.15 Licences held by the applicant in other Australian jurisdictions.

Has there been a change in the licences held by the applicant in other Australian jurisdictions since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, if the applicant holds, or has previously held, electricity, water and/or gas licences in other Australian jurisdictions please provide details. If a licence previously held has been suspended or cancelled, please provide details.

3.16 Previous unsuccessful licence applications in other Australian jurisdictions

Has the applicant had any unsuccessful licence applications (or equivalent) in other Australian jurisdictions since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, please state whether the applicant has applied for an electricity, water or gas licence in another Australian jurisdiction and not been issued with a licence, and provide details if relevant.

3.17 Licences held by associates of the applicant

Has there been a change in the licences held by associates of the applicant since the last variation or issue of the licence?

YES

NO

If **NO**, proceed to next question.

If **YES**, if an associate of the applicant (within the meaning of the *Corporations Act*) holds an electricity, water or gas licence in South Australia or in other Australian jurisdictions, please provide details.

3.18 Compliance plans

Applicants are required to submit a copy of their compliance plan, which demonstrates how the compliance systems the applicant has (or will have) in place will ensure compliance with all of the applicable regulatory obligations imposed by the relevant varied licence.

Please refer to Energy Industry Guideline No. 4 – Compliance Systems and Reporting, for further information on regulatory obligations and compliance requirements. This guideline is available on the Commission’s website www.escosa.sa.gov.au under the headings Industry > Electricity > Codes & Guidelines > Guidelines.

(Attach additional pages if necessary)

3.19 Additional information

The Commission encourages applicants to provide any additional information they consider would be of assistance in supporting the application. Please provide below.

(Attach additional pages if necessary)

4 Factors specified in the *Essential Services Commission Act 2002*

In considering a licence application, the Commission must have, as its primary objective, protection of the long term interests of consumers with respect to the price, quality and reliability of electricity supply, and must also have regard to the need to:

- ▶ promote competitive and fair market conduct
- ▶ prevent misuse of monopoly or market power
- ▶ facilitate entry into relevant markets
- ▶ promote economic efficiency
- ▶ ensure consumers benefit from competition and efficiency
- ▶ facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment, and
- ▶ promote consistency in regulation with other jurisdictions.

If the applicant believes that information about their application would assist the Commission in its consideration of these factors, the applicant should provide such information below.

5 Declaration

All information in this application for the variation of a licence to authorise electricity generation operations in the electricity supply industry in South Australia must be verified by a Statutory Declaration of the applicant, in accordance with the provisions of the *Oaths Act 1936 (SA)*⁵, stating that the information contained in the application is true and correct to the best of the applicant's knowledge, information and belief.

Where the applicant is a body corporate, the declaration must be made by a person authorised by body corporate to sign on its behalf. Evidence of the relevant authority of the declarant to sign on behalf of the body corporate must also be provided to the Commission.⁶

Statutory Declaration

I

of

do solemnly and sincerely declare that the information contained in this application for the variation of a licence to authorise electricity generation operations in the electricity supply industry in South Australia is true and correct to the best of my knowledge information and belief.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1936*.

Date

Signature

(Where the applicant is a body corporate, the declaration must be made by a person authorised by body corporate to sign on its behalf)

Declared at:

this day of 20

Before me:

(Signature of Justice of the Peace or other person authorised under the *Oaths Act 1936*)

⁵ or equivalent legislation in other Australian jurisdictions.

⁶ The Commission will accept a copy of a Board minute (or circulating resolution) giving approval for the declarant to sign on behalf of the applicant as evidence of the relevant authority.

Attachment 1

2017 model licence conditions for new generators⁷

1 Interpretation of this schedule

1.1 Interpretation

1.1.1 Terms used in this schedule and also in the National Electricity Rules (NER) have the same meaning in this schedule as they have in those rules (unless otherwise specified or unless the context otherwise requires).

1.1.2 This schedule retains the numbering convention of the 2017 model licence conditions.

1.1.3 For the purposes of this schedule, the term:

Commission means the Essential Services Commission established under the Essential Services Commission Act 2002.

licensee means (Name of applicant)⁸

2 Disturbance ride through capability

2.1 Disturbance ride-through (voltage phase angle shift)

2.1.1 The generating system of the licensee must not include any vector shift or similar relay/protective function acting upon voltage phase angle, which might operate for phase angle changes less than 20 degrees.

3 System strength

3.1 System strength

3.1.1 Individual components of plant within the generating system of the licensee, which includes but is not limited to generating units and dynamic reactive power plant, must be capable of operating down to the following levels at the high voltage terminals in relation to each component:

- (a) minimum short circuit ratio of 1.5, and
- (b) minimum positive sequence X/R ratio of 2.

⁷ The numbering convention of the conditions retains the numbering convention of the 2017 model licence conditions as amended in the 2019 Report [Licensing Arrangements for Generators in South Australia](#)

⁸ To be inserted by the Commission at the time the licence is issued.

4 System restoration

4.1 System restoration

4.1.1 Where sufficient minimum fault level is available from online synchronous machines, the generating system of the licensee must have the following capability in the event of a black system:

- (a) the generating system must be capable of operation with auxiliary loads only for X^9 minutes while system load is being restored, and
- (b) the generating system, including, but not limited to, each of its generating units and dynamic reactive power plant (as applicable) must have the capability to provide steady-state and dynamic reactive power when operating with auxiliary loads only for X^{10} minutes while system load is being restored.

⁹ The exact duration will be specified by the Commission at the time the licence is issued.

¹⁰ The exact duration will be specified by the Commission at the time the licence is issued.



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