

EXEMPTION APPLICATION FORM - DISTRIBUTION

1. THE APPLICANT

1.1 Identity of Applicant

State the full name of the applicant. The applicant is the person who will be undertaking the electricity distribution operations that will be the subject of the exemption.

Name:

AGL SA Generation Pty Limited (AGL)

1.2 Legal Identity of Applicant

Provide information about the applicant. If the applicant is a body corporate, please also state the jurisdiction in which the applicant is registered, and the applicant's ABN/ACN.

AGL SA Generation Pty Limited ABN 84 081 074 204

1.3 Address and Contact Details of Applicant

Business
Address:

Torrens Island Power Station, via the Grand Trunkway, Torrens Island, Port Adelaide
SA 5960

Postal Address (if different to Business Address):

PO Box 195, Port Adelaide, SA 5015

Telephone:

08 8240 9332

Facsimile:

E-mail:

kandersen@agl.com.au

1.4 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:

Llewelyn Fleming

Title:

Head of Legal – Group Operations, AGL Energy Limited

Business
Address:

Level 3, 699 Bourke Street, Docklands 3008

Postal Address (if different to Business Address):

n/a

Telephone:

03 8633 6261

Facsimile:

Email:

lfleming@agl.com.au

1.5 Diagram of Corporate or other Structure

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; and a diagram of the organisational chart, including composition of the board, management and other key personnel responsible for the key functions of the business.

Please refer to subsequent description of the business of the applicant and its extensive group of companies. AGL would be happy to provide any specific details if needed.

2 THE EXEMPTION

2.1 Date from which exemption is sought

If the applicant seeks to have the exemption issued by a certain date, provide this date. Please note that the Commission does not undertake to issue the exemption by this date. Applicants should usually allow the Commission a minimum of twelve weeks to consider an application, as a public consultation period forms part of the Commission's consideration. Furthermore, all exemptions are approved by the Minister and as such the approval timeframe is unknown.

1 February 2016

2.2 Nature and scope of operations for which Licence is sought

Please state the location of the network, the voltage of the network and the rated capacity of the network (MW and MVA). Applicants should attach a map showing the proposed route of the network.

AGL leases a natural gas fired power station at Torrens Island, South Australia (AGL Plant), and is a licensed generator in respect of that power station. Air Liquide Australia Limited is entering into an off-take agreement with AGL to use the carbon dioxide (which is a by-product of the generation activities conducted by AGL at the AGL Plant). It will construct and operate a carbon dioxide recovery plant on Torrens Island which will use the carbon dioxide produced by the AGL Plant.

In order to obtain the electricity required to operate the carbon dioxide recovery plant, Air Liquide has entered into an Electricity Sale and Supply Agreement with AGL, under which Air Liquide would connect to and acquire electricity directly from AGL's private network on Torrens Island. The rated capacity of that network is 12MW and 15MVA. Both AGL and Air Liquide Australia are large proprietary companies within the meaning of section 45A(3) of the *Corporations Act 2001*. They are proposing to engage in energy connection and supply off-grid, for a specific commercial project. The electricity consumed by Air Liquide Australia at the Torrens Island Site will be metered, and payment will be made on that basis, in accordance with the Electricity Sale and Supply Agreement.

Please refer to the enclosed diagrams (which were previously provided) for further detail of the connections. The first is the internal wiring diagram for the AGL Torrens site, showing where the CO2 plant (Air Liquide) will connect. The second shows connection to the ElectraNet 66kV switchyard.

3 SUITABILITY OF APPLICANT

3.1 Standard of honesty and integrity shown by Applicant

In deciding whether the applicant is suitable for exemption, the Commission may:

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

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), or
- ▲ has been the subject of disciplinary action,
- ▲ 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 exemption being revoked.

AGL is not aware of any matter that would render it as lacking the standards of honesty and integrity required for this exemption.

AGL refers to the information that would already be in ESCOSA’s possession as to the standard and integrity by AGL’s related bodies corporate.

3.2 Standard of honesty and integrity shown by Officers and major shareholders of Applicant

Applicants should address responses to this question in the same manner as 3.1 above except here 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.

AGL is not aware of any matter that would indicate its Officers or major shareholders to be lacking in that standards of honesty and integrity required for this exemption. AGL refers to the information that would already be in ESCOSA’s possession as the standard and integrity by AGL’s related bodies corporate.

3.3 Names and addresses of the Officers of Applicant

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:	Redman, Brett Alan
Date of Birth:	28/05/1970
Office Held:	Director
Address:	11 Minns Road, Gordon, NSW 2072

Full Name:
Date of Birth: Fitzgerald, John Patrick
Office Held: 09/05/1971
Address: Director
1 Leys Avenue, Lilyfield, NSW 2040

Full Name:
Date of Birth: Miller, Bruce Ninian
Office Held: 03/08/1947
Address: Secretary
2 Eden Street, Chatswood, NSW 2067

Full Name:
Date of Birth: Vyrnwy-Jones, Natasha Diana
Office Held: 03/12/1981
Address: Secretary
22/167-183 Brougham Street, Woolloomooloo, NSW 2011

3.4 Names and addresses of major shareholders of Applicant

State the full names and addresses of the major shareholders of the applicant.

Full Name:
Date of Birth: AGL Torrens Island Holdings Pty Limited
Office Held: Sole Shareholder
Address: Level 22, 101 Miller Street
North Sydney, NSW 2060

3.5 Details of the group members

This is information about entities controlled by the applicant, or by the ultimate parent entity of the applicant (if applicable).

AGL's ultimate holding company is AGL Energy Limited ACN 115061375
AGL Group is composed of approximately 75 companies, the vast majority of which are involved in the production and retailing of energy. The following URL provides more detail of those companies that are controlled by AGL Energy Limited : <http://www.agl.com.au/about-agl/who-we-are/agl-companies>

3.6 Additional information

Please answer the following questions and, where the answer to any question is "no", provide further detail.

▲ Is the applicant a resident of, or does it have permanent establishment in, Australia?

Yes.

- ▲ Is the applicant under external administration (as defined in the Corporations Act 2001) or under a similar form of administration under any laws applicable to it in any jurisdiction?

No.

- ▲ Is the applicant immune from suit in respect of the obligations under the Electricity Act 1996?

No.

- ▲ Is the applicant capable of being sued in its own name in a court of Australia?

Yes.

(attach additional pages if necessary)

3.7 Financial resources available to the Applicant

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), and
- ▲ 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.

AS ESCOSA is aware, AGL is a major South Australian electricity and gas generator and retailer. AGL and its related entities within the AGL Group have significant financial resources at their disposal to carry out the operations required for the small-scale off grid activity for which this exemption is sought.

Moreover, AGL Group is one of Australia's largest energy companies. It holds registrations and meets the prudential obligations of all State and national regulators. It has more than sufficient resources available to meet its financial obligations.

AGL would be happy to provide any further information if required.

3.8 Additional Details of Structure of Applicant

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.

Please see previous response.

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 1.5);
- ▲ if the applicant will employ contractor/s to assist with the 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 exemption; and

AGL has staff dedicated to the technical operations of the site and network at Torrens Island. They hold requisite engineering qualifications in technical registrations including: Licenced Electricians, Chartered Electrical Engineers and qualified High Voltage switching operators.

3.10 Technical resources available to the Applicant

Applicants are asked to provide details about the availability of technical resources to be used in carrying out the operations for which an exemption 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 transmission or distribution 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.

AGL is a major South Australian electricity generator and retailer. The network to which Air Liquide will be connecting is a critical piece of infrastructure, required by AGL for its generation activities at Torrens Island. Accordingly AGL and its related entities have significant resources and technical staff dedicated to the maintenance and management of the relevant network and available to carry out the activities required for the operations for which the exemption is sought.

3.11 Safety of Network

The Commission may not issue an exemption unless it is satisfied that the distribution network (or the proposed network) will have the necessary capacity for distributing electricity safely. Applicants are therefore asked to verify that the network has been (or will be) developed in accordance with

relevant Australian Industry Codes and Australian Standards, and that a connection agreement has been or will be signed.

AGL refers to the above comments. Moreover, the network has been designed in accordance with all relevant industry codes and Australian standards at the time of construction and carried out by the Electricity Trust of South Australia, a Government Instrumentality. A supply agreement has been signed between AGL and Air Liquide in committing to maintenance of appropriate safety standards.

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.

AGL refers to the above comments. AGL is a major South Australian electricity generator and retailer. Accordingly, AGL has an advanced risk management system which applies to all company operations. That risk management system will be applied across the operations to which this exemption is sought.

AGL and the Air Liquide have also agreed to certain risk management protocols and protections.

3.13 Development Act Approval

Please advise if the applicant has or is applying for approval under the Development Act 1993 (SA). If so, provide details, including the date on which approval was or will be granted.

AGL's operations on Torrens Island are subject to an existing development approval.

The customer to which the electricity will be distributed has received development approval under the Development Act 1993 (SA) for the operations to which this exemption application relates.

3.14 Registration with AEMO

Please advise if the applicant will apply to register with AEMO. If so, provide details.

AGL has no plans to apply to register with AEMO in respect of the distribution activities the subject of this application. All electricity distributed under the operations subject to this exemption will be sold pursuant to a private contractual arrangement. The customer will not be directly connected to the grid and there will be no notable change in the status quo regarding the current connection/energy market participation of AGL itself.

3.15 Licences/Exemptions held by the Applicant in other Australian jurisdictions.

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

AGL has received a network exemption and retail exemption by the AER under the National Energy Customer Framework, for these operations under exemption classes R5, NR04 and NR05.

These are automatic exemptions, available due to the orthodox nature of the activity the subject of this exemption application. The operations involve two large, private entities and an off-grid/embedded supply arrangement.

Please note that the conditions attached to the AER exemptions (regarding particular standards of service and customer protections) have been incorporated into the supply agreement between AGL and Air Liquide.

3.16 Previous unsuccessful licence applications in other Australian jurisdictions

Please state whether the applicant has applied for an electricity licence in another Australian jurisdiction and not been issued with a licence, and provide details if relevant.

None.

3.17 Licences/Exemptions held by Associates of the Applicant

If an associate of the applicant (within the meaning of the Corporations Act) holds an electricity licence and/or exemption in South Australia or in other Australian jurisdictions, please provide details.

AGL and its related bodies hold numerous electricity generation and retail licences and exemptions throughout Australia.

In South Australia these are:

- (1) an electricity generation licence; and
- (2) an electricity retail licence.

3.18 Compliance Plans

Please explain how the Applicant's existing compliance plan will capture and comply with any additional requirements as a result of distributing electricity (you may wish to provide a copy of the applicant's updated compliance plan).

AGL does not envisage requiring a significant update to its existing compliance plan to accommodate the additional requirements of distributing electricity to the customer under this arrangement.

AGL will permit connection to its existing network and has and will implement protocols with Air Liquide to manage network security and safety.

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.

This application for exemption is being made by AGL out of the abundance of caution.

The relevant network is for all intents and purposes, an "embedded" or "inset" network. However, for technical reasons there is an argument that it may not meet the very specific automatic exemption criteria in regulation 15 of the *Electricity (General) Regulations 2012 (SA)*.

Accordingly, AGL submits that it is an appropriate candidate for exemption under s80.

Further, approval by ESCOSA of this exemption will be consistent with the exemptions already granted under the National Energy Customer Framework by the AER.

4 FACTORS SPECIFIED IN THE ESSENTIAL SERVICES COMMISSION ACT 2002

In considering any 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:

- (a) promote competitive and fair market conduct;
- (b) prevent misuse of monopoly or market power;
- (c) facilitate entry into relevant markets;
- (d) promote economic efficiency;
- (e) ensure consumers benefit from competition and efficiency;
- (f) facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment;
- (g) 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.

As outlined above, the activities for which this exemption is sought relate to a small-scale arrangement between AGL and one customer, to be co-located on Torrens Island. The customer is to acquire electricity directly from AGL's network on Torrens Island. Accordingly, this arrangement will not have any material impact on the market for electricity in South Australia.

The proposed exemption relates to a commercial arrangement between two large proprietary companies, who have reached a mutually beneficial arrangement. This arrangement will not have any detrimental effects on the consumers of electricity in South Australia.

This arrangement does, however, promote economic efficiency. Approval of the proposed arrangement will allow the use of a waste resource as an input for creation of a consumer product and obviate the need for expensive and duplicative network investment to otherwise accommodate the plant and connect it to an electricity source.

Further, approval by ESCOSA of this exemption will be consistent with the exemptions already granted under the National Energy Customer Framework by the AER.

Map of Torrens Island



5 Declaration

All information in this application for an exemption from the requirement to hold an electricity distribution licence in South Australia must be verified by a Statutory Declaration of the applicant, in accordance with the provisions of the *Oaths Act 1936* (SA), 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, evidence of the relevant authority of the declarant to sign on behalf of the body corporate must also be provided to the Commission.

Statutory Declaration

I JOHN PATRICK FITZGERALD

of..... 101 MILLER STREET NORTH SYDNEY

do solemnly and sincerely declare that the information contained in this application for an exemption from the requirement to hold an electricity distribution licence 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 26 NOVEMBER 2015

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: MELBOURNEthis 26 day of NOV 2015

Before me:..... 

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

Llewelyn Fleming
Level 3, 699 Bourke St, Docklands VIC 3008
An Australian Legal Practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria)