

Electricity Industry Act 2004
Energy Coordination Act 1994
Water Services Act 2012

Licence Application Guidelines and Form

Electricity, Gas and Water Licences

April 2014

Economic Regulation Authority



WESTERN AUSTRALIA

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Important Notice

The Economic Regulation Authority (**Authority**) is committed to best practice regulation, to maintain customer service, while minimising regulatory burden and compliance costs on business. The Authority is committed to work in an independent, flexible and accountable manner. Accordingly, licence applicants are encouraged to contact the Authority regarding their informational requirements throughout the application process.

The Authority has compiled this document in good faith. It summarises information about applying for electricity, gas and water licences. This document is not a substitute for legal advice. No person or organisation should act based on any matter contained in this document without obtaining appropriate professional advice.

The summaries of the *Electricity Industry Act 2004*, the *Energy Coordination Act 1994*, the *Water Services Act 2012* and other legislation or regulations relevant to the supply of electricity, gas or water in this document do not contain all material terms of those laws. The Authority has not attempted to exhaustively identify and describe the rights, obligations and liabilities of any person under those laws. The summaries are not a substitute for legal advice.

The scope of information outlined in this document as being required for an application does not prevent or limit the Authority in any way from requesting any additional information for the purposes of assessing a licence application. This document is a guide only and should not be treated as definitive.

Prior to submitting a licence application, the Authority recommends that potential applicants contact the Authority's Licensing, Monitoring and Customer Protection Division to determine the extent of information required to support their application.¹

For the purposes of transparency and accountability, copies of licences and licence application summaries and Authority decisions are available on the Authority's website² or for inspection at the Authority's offices. The Authority will publish a public notice on the Authority's website of licence applications received and when the Authority makes a decision.

Confidential information

The Authority is bound by its obligations relating to confidential information in the *Public Sector Management Act 1994 (WA)* and the *Economic Regulation Authority Act 2003 (WA)*.

Accordingly, the Authority has a very strict privacy policy regarding sensitive commercial and business information that is provided to the Authority as part of an electricity, gas and water licence application or pursuant to the terms of a licence.

¹ For contact details refer to the Authority's website at: www.erawa.com.au.

² <http://www.erawa.com.au/licensing>.

The Authority is bound by the *Freedom of Information Act 1992 (WA)* (**FOI Act**). Section 33 of the FOI Act requires that the Authority must consult with the party who has provided it with commercial or business information before providing access to this material to a third party.

Further, the Authority will not provide information to a third party applicant under the FOI Act if the disclosure:

- would reveal trade secrets of a person;
- would reveal information (other than trade secrets) that has a commercial value to a person and disclosure could reasonably be expected to destroy or diminish that commercial value; or
- would reveal information about the business, professional, commercial or financial affairs of a person and disclosure could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of that kind to the Government or to an agency.

Finally, under the FOI Act, if the Authority resolves to release information containing commercial or business interests of a party then that party can ask the Authority to review the decision internally or may also have the decision reviewed by the Information Commissioner.³

This document is available on the Authority's website and may be made available in alternative formats to meet the needs of people with disabilities on request.

³ For contact details refer to the Information Commissioner's website at: <http://www.foi.wa.gov.au>.

1 Introduction

This document provides guidance to organisations or persons seeking to apply for:

- a licence under relevant legislation to:
 - generate, transmit, distribute or sell electricity; or
 - distribute or sell gas⁴; or
 - provide a water service; or
- an amendment, transfer, renewal or surrender of a licence granted under the relevant legislation.

Section 2 of these guidelines describes when a licence may be required.

Section 3 sets out how a person should apply for a licence, including the information that must be included in a licence application.

Section 4 explains the Authority's decision-making process, including the matters the Authority will take into account in considering a licence application and the timeframe within which the Authority will make its decision. It also explains the process for appealing the Authority's decision.

Section 5 discusses the licence terms and conditions that may be imposed by the Authority, including the term (duration) of the licence and licence fees.

Section 6 addresses the enforcement measures available to the Authority in the event a licensee breaches the conditions of its licence.

Section 7 addresses amendment, renewal and transfer of existing licences.

Section 8 deals with the surrender and cancellation of existing licences.

⁴ Section 11G(2) requires a licence to sell gas to small use customers whose consumption of gas is less than 1 terajoule per year.

2 Who needs to apply for a licence?

The following Acts set out who needs to apply for a licence:

- *Electricity Industry Act 2004* (**Electricity Act**);
- *Energy Coordination Act 1994* (**Gas Act**); and
- *Water Services Act 2012* (**Water Act**).

Licence applicants (**applicants**) should familiarise themselves with the licensing requirements in these Acts and their subsidiary legislation.⁵

Applicants should form their own view on the legislative requirements. In case of uncertainty, applicants should seek their own legal advice.

The following sections describe which activities require a licence. They also provide examples of activities, which do not require a licence, either because they do not fall within the scope of the Acts or because they are exempt. The information contained within these sections is not exhaustive and applicants should seek their own legal advice.

2.1 Electricity

[Part 2 of the Electricity Act]

Activities requiring a licence

An electricity licence is required for participants in the electricity industry who intend to, or currently, generate, transmit, distribute or sell electricity.

Electricity licences are categorised as follows:

- generation, which authorises the licensee:
 - to construct and operate one or more generating works; or
 - to operate one or more existing generating works;
- transmission, which authorises the licensee:
 - to construct and operate one or more transmission systems⁶; or
 - to operate one or more existing transmission systems;
- distribution, which authorises the licensee:

⁵ Copies of these Acts and associated codes and regulations may be obtained from the State Law Publisher's website at <http://www.slp.wa.gov.au/>.

⁶ Section 3 of the Electricity Act defines a transmission system as any apparatus, equipment, plant or buildings used, or to be used, for, or in connection with, the transportation of electricity at nominal voltages of 66 kV or higher.

- to construct and operate one or more distribution systems⁷; or
- operate one or more existing distribution systems;
- retail, which authorises the licensee to sell electricity to customers; and
- integrated regional, which authorises the construction and operation of any combination of generation, transmission, distribution and retail activities for the purpose of supplying electricity to customers otherwise than through the South West Interconnected System (**SWIS**).

Activities that are outside of the scope of the Electricity Act

The following are examples of activities that do not require an electricity licence because they fall outside of the scope of the Electricity Act:

- Self-supply - a person is not required to hold a generation, transmission or distribution licence if the generating works, transmission system or distribution system is or are used, or to be used, solely for the supply of electricity for consumption by:⁸
 - the person who owns, controls or operates the works or system;
 - a related body corporate of a person who owns, controls or operates the works or system (if that person is a body corporate); or
 - a person who is in partnership with, or is a participant in a joint venture arrangement with, a person who owns, controls or operates the works or system.
- Sale of electricity by the holder of a generation licence solely for consumption by another person on the premises on which the generating works to which the licence applies are located.⁹ In this case, the holder of the generation licence does not require a retail licence.
- Sale of electricity to a person who is not the end use customer. For example, a generator who sells electricity solely to retailer(s) is not required to hold an electricity retail licence.

⁷ Section 3 of the Electricity Act defines a distribution system as any apparatus, equipment, plant or buildings used, or to be used, for, or in connection with, the transportation of electricity at nominal voltages of less than 66 kV.

⁸ Section 7(5) of the Electricity Act.

⁹ Section 7(6) of the Electricity Act.

Activities that are exempt

[Section 8 of the Electricity Act]

Class exemptions

The *Electricity Industry Exemption Order 2005*¹⁰ provides a number of class exemptions for activities which would otherwise require a licence, including (but not limited to):

- Generating works under 30 MW (at each connection point) per annum.
- Supply to commercial premises on which generating works are located. For example, a person who operates a photovoltaic system at commercial premises and sells the electricity generated to another person for consumption at the same premises is not required to hold an electricity retail licence.
- On-supply to commercial premises, which are under the control or management of the supplier. For example, the owner of a shopping mall is not required to hold an electricity retail or distribution licence to sell or distribute electricity to its tenants.
- On supply to residential premises, which are under the control or management of the supplier (subject to certain conditions). For example, a strata company or the administering body of a retirement village is not required to hold an electricity retail or distribution licence to sell or distribute electricity to the occupants of the strata complex or retirement village.

A number of exemptions are subject to specified conditions.

Persons who own or operate a caravan park may furthermore be exempt under the *Electricity Industry (Caravan Park Operators) Exemption Order 2005*.¹¹ This exemption is subject to the conditions specified in the exemption order.

Potential applicants should familiarise themselves with both exemption orders to ensure they meet all of the requirements.

Individual exemptions

Potential applicants who do not meet the requirements for a class exemption can apply to the Public Utilities Office for an individual licence exemption under the Electricity Act. For further information about the electricity licence exemption process, potential applicants should contact the Department of Finance's Public Utilities Office.¹²

¹⁰ The *Electricity Industry Exemption Order 2005* is available on State Law Publisher's website (<http://www.slp.wa.gov.au>) as subsidiary legislation under the Electricity Act.

¹¹ *Electricity Industry (Caravan Park Operators) Exemption Order 2005*, Government Gazette 22 April 2005, pg 1339-41; *Electricity Industry (Caravan Park Operators) Exemption Amendment Order 2009*, Government Gazette 8 May 2009, pg 1499-501. The exemption order is available on www.slp.wa.gov.au.

¹² <http://www.finance.wa.gov.au/> -> "Contact Us".

2.2 Gas

[Part 2A of the Gas Act]

Activities requiring a licence

A gas licence is required for participants in the gas industry who intend to, or currently, distribute or sell gas through a gas distribution system¹³.

Gas licences are categorised as follows:

- distribution, which authorises the licensee to:
 - construct a distribution system and to transport gas through the system; or
 - transport gas through an existing distribution system, and if required for that purpose, to make alterations to the system;and to operate and maintain the system; or
- trading, which authorises the licensee to sell gas transported through a distribution system to small use customers¹⁴.

Activities that are outside of the scope of the Gas Act

The following are examples of activities that do not require a gas licence because they fall outside of the scope of the Gas Act:

- Sale of gas other than through a distribution system. For example, the sale of bottled gas does not require a trading licence.
- Sale of gas to a person who is not a small use customer.¹⁵

¹³ Section 3 of the Gas Act defines a distribution system as a system of pipelines, mains, and gas service pipes, designed to operate at a pressure of less than 1.9 megapascals, for the transportation of gas to customers.

¹⁴ Section 3 of the Gas Act defines a small use customers as customers whose consumption of gas is less than 1 terajoule per year.

¹⁵ Section 3 of the Gas Act defines a small use customers as customers whose consumption of gas is less than 1 terajoule per year.

Activities that are exempt

[Section 11H of the Gas Act]

Class exemptions

The *Energy Coordination Exemption Order 2009*¹⁶ provides a number of class exemptions for activities which would otherwise require a licence, including (but not limited to):

- Construction of a distribution system by a developer. A developer (a person who subdivides land) does not have to hold a distribution licence to construct a distribution system for the transportation of gas to lots resulting from that subdivision.
- On-supply to residential premises which are under the control or management of the supplier. For example, a strata company or the administering body of a retirement village is not required to hold a gas trading or distribution licence to supply gas to the occupants of the strata complex or retirement village.
- On-supply to commercial premises which are under the control or management of the supplier (distribution only). For example, the owner of a shopping mall is not required to hold a gas distribution licence to distribute gas to its tenants.

Some of the exemptions are subject to specified conditions.

Potential applicants should familiarise themselves with the exemption order to ensure they meet all of the necessary prerequisites.

Individual exemptions

Potential applicants who do not meet the requirements for a class exemption can apply to the Public Utilities Office for an individual licence exemption under the Gas Act. For further information about the gas licence exemption process, potential applicants should contact the Department of Finance's Public Utilities Office.¹⁷

2.3 Water

[Part 2 of the Water Act]

Activities requiring a licence

A water services operating licence is required for participants in the water industry who intend to, or currently, provide water services.

¹⁶ The *Energy Coordination Exemption Order 2009*, Government Gazette 31 March 2009, pg 1022-1024; *Energy Coordination Exemption Amendment Order 2010*, Government Gazette 24 September 2010, pg 5009-5010. The exemption order is available on <http://www.slp.wa.gov.au>.

¹⁷ <http://www.finance.wa.gov.au/> -> "Contact Us".

Water licences are categorised as follows:

- water supply services, which includes:
 - potable (drinking water) water supply; and/or
 - non potable water supply;
- sewerage services;
- irrigation services; and
- drainage services.

A water licence may authorise the provision of one or more classes of water service.

Activities that are outside of the scope of the Water Act

The following are examples of activities that do not require a water licence because they fall outside of the scope of the Water Act:¹⁸

- Provision of water supply or sewerage services other than by reticulated conduits. For example, transporting water or sewage by cart, truck or tanker.¹⁹
- Self-supply, where a person provides water to themselves within the boundaries of a single lot to a single dwelling (e.g. rainwater tanks, single-lot recycled water systems, private bores, farms).
- On-supply, where a water service is provided by a person who is simply an intermediary through whom the service is actually provided by a third party (e.g. a shopping centre where water is delivered to individual tenants).

Department of Water's website provides a complete list of activities that do not require a water services licence including a list of licence exemptions with links to the individual exemptions.²⁰

¹⁸ Department of Water's website provides a complete list of licence exemptions: <http://www.water.wa.gov.au/> -> "Business with water" -> "Water Services" -> "Water services licensing and licence exemptions". Alternatively, the *Water Services Regulations 2013* and individual water exemption notices can be found on State Law Publisher's website (www.slp.wa.gov.au).

¹⁹ There is one exception. If water or sewerage services are provided other than by reticulated conduits by a licensee in substitution for supply by reticulated conduits, the services are considered water services for the purposes of the Water Act. For example, if a licensee temporarily carts sewage due to a fault in the sewerage works, the carting would be covered by the licensee's licence. See regulation 5(2) and 5(3) of the *Water Services Regulations 2013* (see www.slp.wa.gov.au)

²⁰ See <http://www.water.wa.gov.au/> -> "Business with water" -> "Water Services" -> "Water services licensing and licence exemptions". Regulation 5(6) of the *Water Services Regulations 2013* and individual exemption notices can also be found on State Law Publisher's website (www.slp.wa.gov.au).

Activities that are exempt

[Section 7 of the Water Act]

Class exemptions

The following two class exemptions are currently in place for water services:

- Provision of water supply, sewerage and drainage services to camps operated by mining, oil and gas companies or their contractors;²¹ and
- Provision of drainage services by local government in specified areas.²²

The Department of Water has further advised it is currently considering a class exemption for some types of water supply and irrigation services. For further information about the water licence exemption process, potential applicants should contact the Department of Water.²³

Individual exemptions

Potential applicants who do not fall under a class exemption can apply to the Department of Water for an individual licence exemption under the Water Act. For further information about the water licence exemption process, potential applicants should contact the Department of Water.²⁴

3 How to apply for a licence?

[Sections 9, 10 and 19 of the Electricity Act, Section 11K, 11L and 11S of the Gas Act and Section 10 and 11 of the Water Act]

Applicants are encouraged to contact the Authority's Licensing, Monitoring and Customer Protection Division to discuss any questions they may have in relation to the application process.

A licence application must be made by a person with the authority to make the application and be accompanied by the prescribed fee.

The application must include relevant information to satisfy the Authority that:

- the applicant:
 - has, and is likely to retain; or

²¹ Exemption Notice: Class Exemption for Mining, Oil and Gas Camps, Government Gazette 30 August 2013, pg. 4114. See <http://www.water.wa.gov.au/> -> "Business with water" -> "Water Services" -> "Water services licensing and licence exemptions" or www.slp.wa.gov.au.

²² Water Services Licensing (Local Government Drainage Services) Exemption Order 2011, Government Gazette 24 May 2011, pg. 1899. See <http://www.water.wa.gov.au/> -> "Business with water" -> "Water Services" -> "Water services licensing and licence exemptions" or www.slp.wa.gov.au.

²³ <http://www.water.wa.gov.au/> -> "Contact us".

²⁴ <http://www.water.wa.gov.au/> -> "Contact us".

- will acquire within a reasonable time
- the financial and technical ability or resources to provide the service to be licensed; and
- granting the licence would not be contrary to the public interest.

Sections 3.3, 3.4 and 3.5 of these guidelines describe what information should be included in an application to address the financial, technical and public interest requirements. Applicants should ensure they provide evidence for claims made in an application.

Applicants should contact the Authority to determine the extent of the information required as the Authority may require different amounts of information depending on:

- the nature of the application;
- whether the applicant is an existing licensee;
- the applicant's level of financial and technical resources;
- considerations in relation to public interest matters related to the proposed application;
- the impacts on customers;
- how the project is financed;
- the level of technical expertise of the applicant; and
- the applicant's experience in operating and/or supplying licensed services to customers.

If the applicant comprises more than one legal person (e.g. a joint venture), the information required for this application is to be provided for each person.

Applications should be clear, comprehensive and complete. If the application does not contain sufficient information for the Authority to make a decision, the Authority may request further information from the applicant or other parties. The Authority may also reject an application where limited or incomplete information has been provided.

Contents of a licence application

A licence application should include:

- the application form contained in **Appendix 1**;
- a summary of the application (see Section 3.1);
- supporting information addressing the information requirements set out in Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of these Guidelines;
- identification of any confidential evidence;
- the licence application checklist (see **Appendix 2**); and

- be accompanied by the prescribed fee (see Section 3.7).

3.1 Application summary

Applicants should provide a summary of the application, which the applicant views as suitable for publication. The Authority will undertake public consultation on the application and as a part of this process will publish a public notice together with the application summary on the Authority's website for public consultation.

The application summary should contain the following information (where relevant):

- 3.1.1 a description of the applicant's structure and key organisational relationships;
- 3.1.2 a description of the service(s) or service model intended²⁵;
- 3.1.3 a description of the service infrastructure/works involved;
- 3.1.4 information on the status of other essential regulatory approvals required; and
- 3.1.5 a description of any public consultation or stakeholder engagement processes undertaken concerning the licence project.

Applicants should structure the summary in accordance with sections 3.2 to 3.6 below, but should not include material that is commercial in confidence and not suitable for publication.

3.2 Corporate information

The application should contain the following corporate information:

- 3.2.1 the identity of the applicant, including:
 - a) the legal entity name and trading name; and
 - b) relevant ABN or ACN (as relevant);
- 3.2.2 the address and contact details of the applicant;
- 3.2.3 the name and contact details of the primary contact person whom the Authority can contact for licensing matters;
- 3.2.4 a description of the company including:
 - a) the entity's profile, including the date the entity was founded, the entity's history, employee numbers and a description of the entity's core activities;
 - b) company type;²⁶

²⁵ Please use the following measures consistently through a licence application: mega watts (MW) for electricity, terajoules (TJ) for gas and mega litres (ML) for water.

²⁶ For instance, a public company, group of companies, private company, joint venture, other body corporate, partnership, unincorporated association, sole trader or other entity.

- c) the proportions of equity held by the individuals involved;
 - d) a list of any associated and/or controlled entities, and including where relevant any parent companies; and
 - e) copies of any relevant articles of association and company registration details for the applicant and any associated or controlled entities;
- 3.2.5 a description that specifies any degree of control exercised by associated entities over the applicant and how that control is exercised. The application should include detailed information on any other entity the applicant intends to rely on to provide staff, services or resources to the licensed service;
- 3.2.6 a list of all company directors or principals of the applicant; and
- 3.2.7 a statutory declaration from the company directors or principals of the entity declaring that they have not been or would not be disqualified under the *Corporations Act 2001 (Cwlth)* from managing corporations.

3.3 Financial information

[Section 19 of the Electricity Act, Section 11S of the Gas Act and Section 11 of the Water Act]

The Electricity, Gas and Water Acts require applicants to demonstrate that they have and are likely to retain, or will acquire within a reasonable time and are then likely to retain, the financial resources to undertake the activities authorised, or to be authorised, by the licence.

The information required to demonstrate this requirement is set out below.

Current financial position

- 3.3.1 The most recent audited general purpose financial report for the applicant (with accounts) that complies with the Australian Accounting Standards Board (**AASB**) Standards, including the auditor's report. Reporting entities that are not required by legislation, Ministerial directive or other Government Authority to follow AASB Standards must at least comply with the Australian Accounting Standards (**AAS**). Applicants must comply with International Accounting Standards (**IAS**) if no accounts exist that complies with AASB or AAS.
- 3.3.2 Where available, audited financial reports for the last three years to be provided together with the Auditor's report, the Director's report and the Director's declaration.
- 3.3.3 New entities that cannot provide financial and auditor's reports should provide financial information (such as interim accounts) to demonstrate that they have an acceptable financial standing/capacity commensurate with their potential financial exposure.
- 3.3.4 If the applicant is a subsidiary company, audited general purpose financial reports should be provided that comply with the AASB Standards or AAS for the parent company(s) for the past three years.

- 3.3.5 A copy of any other document, record or information that the applicant has been required to submit to ASIC under chapter 2M of the *Corporations Act 2001 (Cwlth)* over the past three years.
- 3.3.6 A written declaration from an independent auditor or the applicant's principal financial institution stating that:
- a) an insolvency official has not been appointed in respect of the business or any property of the business;
 - b) no application or order has been made, resolution has been passed, or steps have been taken to pass a resolution to wind up or dissolve the business; and
 - c) the applicant is unaware of any other factors that would impede their ability to finance the activities required by the licence.
- 3.3.7 Information about any risks to the applicant's financial position (such as any potential contingent liabilities, any litigation as a plaintiff or defendant) and measures to manage those risks (see also Section 3.3.15).

Financing

- 3.3.8 A description of the extent to which any financial obligations of the applicant are guaranteed by other group companies. Copies of any guarantee agreements should be attached to the application.
- 3.3.9 A description of any contractual arrangements²⁷ that define relationships within the group including shared resources, guarantees, revenue flows, obligations and/or responsibilities. Where available, copies of executed and proposed agreements should be provided.
- 3.3.10 Where relevant, a declaration specifying the particular lenders financing the application proposal and the type of funding or financial support to be obtained including any secured funding, mezzanine debt, vendor finance, venture capital or bank guarantees. Please provide details of the relevant facility, including evidence (such as copies of agreements) of credit lines and terms (to maturity), repayment requirements and any financial covenants associated with the facilities.
- 3.3.11 Evidence that the applicant is able to finance the assets and investment necessary to undertake the activities to which the licence relates.

Financial projections

- 3.3.12 Details of the intended services and related business activities that are, or will be undertaken by the applicant, including information about the markets the applicant will actively participate in.

²⁷ E.g. alliance contracts, associate contracts, establishment contracts.

- 3.3.13 Projected revenue and expenditure figures for at least 5 years, or over the life of the project, for the provision of services. This projection should demonstrate the financial security and feasibility for the activities to which the licence relates, as well as highlight all key assumptions and risks, along with all relevant risk management strategies.
- 3.3.14 The methods or principles that the applicant proposes to apply in determining its prices or charges.²⁸

Financial policies

- 3.3.15 Copies of the applicant's financial policies, including the applicant's accounting policies, internal and external auditing policies, risk management policies and internal control procedures.
- 3.3.16 Where relevant, the applicant's pricing policies, methods and procedures.

3.4 Technical information

[Section 19 of the Electricity Act, Section 11S of the Gas Act and Section 11 of the Water Act]

The Electricity, Gas and Water Acts require electricity, gas and water licence applicants to demonstrate that they have and are likely to retain, or will acquire within a reasonable time and are then likely to retain, the technical resources to undertake the activities authorised, or to be authorised, by the licence.

The information required to demonstrate this requirement is set out below.

Assets

- 3.4.1 A description of the physical environment of the proposed activity and its immediate vicinity, including all land and areas affected by the proposed application.
- 3.4.2 If the applicant proposes to provide water services, a description of the methods or principles that the applicant proposes to apply in the provision of the service.²⁹
- 3.4.3 A description of the infrastructure and any interconnected infrastructure systems (proposed to be) used to deliver the services to be covered by the licence.
- 3.4.4 A detailed construction schedule of all proposed construction activities including proposed commencement and completion dates of the construction activities and commissioning of works. Construction activities must specify the location of any areas that will be temporarily or permanently affected by the activities.³⁰

²⁸ Explicit statutory requirement for applicants for a gas trading licence (section 11L(2)(b) of the Gas Act), but also relevant for other licence applications.

²⁹ Section 10(2)(b)(ii) of the Water Act.

³⁰ Note, this information is not required for an electricity retail licence or gas trading licence application or where the application relates to existing assets only.

- 3.4.5 If the applicant proposes to supply gas under a gas distribution licence, the nature and extent of the construction, alteration, operation or maintenance of a distribution system undertaken or to be undertaken for the transportation of gas.³¹
- 3.4.6 Where applicable, information about supply connection to networks or customers, including details of the network connection and actual or estimated number of customers by type.³²
- 3.4.7 Where applicable, details of the actual or proposed metering arrangements for the proposed service(s), including:
- a) forecasts of annual maximum demand for each of the next 5 years;³³
 - b) agreements with network service providers;
 - c) agreements with metering agents; and
 - d) arrangements for dealing with metering complaints and queries.
- 3.4.8 If the applicant proposes to supply gas under a gas distribution or gas trading licence, the methods or standards that the applicant proposes to apply in supplying gas.³⁴
- 3.4.9 A detailed description of the asset management system, including:
- a) the measures to be taken by the applicant for the proper maintenance of assets used in the provision of the electricity supply, gas supply or water services, and for undertaking maintenance and operation of any works;
 - b) a description of the existing or proposed asset registers, risk assessments, asset management plans, quality management systems, construction standards, maintenance manuals/plans/schedules, asset management information systems and data management; and
 - c) detailed information about the key processes that should be addressed in an asset management system can be found in the Authority's *Audit Guidelines*, in particular Appendix 4.³⁵

Customer contracts

- 3.4.10 If the applicant proposes to sell electricity to small use customers (electricity retail licence or integrated regional licence for retail services), a copy of the applicant's proposed standard form contract.³⁶

³¹ Section 11L(2)(d) of the Gas Act.

³² E.g. industrial, commercial, residential.

³³ It is important that technical and financial information is consistent.

³⁴ Section 11L(2)(c) of the Gas Act.

³⁵ *Audit Guidelines*, see www.erawa.com.au -> Licensing -> Electricity, Gas or Water -> Regulatory Guidelines. Note, this information is not required for an electricity retail licence or a gas trading licence application.

³⁶ As required by section 49 of the Electricity Act. An electricity retail licence or electricity integrated regional licence for retail services cannot be granted until the standard form contract is approved by the Authority.

- 3.4.11 If the applicant proposes to sell gas to small use customers (gas trading licence), a copy of the applicant's proposed standard form contract.³⁷
- 3.4.12 If the applicant proposes to supply water services, a copy of the applicant's standard terms and conditions for the provision of the service.³⁸
- 3.4.13 If the applicant proposes to supply water services under non standard terms and conditions, a copy of the applicant's proposed non standard terms and conditions of service.
- 3.4.14 If the applicant proposes to supply water services under a standard customer contract, a copy of the applicant's proposed standard customer contract.³⁹

Customer information

- 3.4.15 Evidence of a commitment to remain or become a member of an approved Energy and Water Ombudsman Scheme and to be bound by any decisions of an Energy and Water Ombudsman Scheme.

This requirement applies only to applicants for:

- a) an electricity retail, distribution or integrated regional (for retail or distribution services) licence who intend to supply electricity to small use customers⁴⁰;
 - b) a gas trading or distribution licence⁴¹; and
 - c) a water services operating licence.⁴²
- 3.4.16 Where applicable, evidence of compliance with relevant supply industry methods, quality standards and codes including compliance with relevant consumer protection arrangements including:
- a) a description of how customer accounts will be managed;
 - b) details of customer information provision policies (e.g. tariffs, fees and charges), customer consultation processes, account enquiries processes, payment arrangements and hardship policies and procedures, complaints and dispute resolution processes, account termination procedures and customer performance measures.

A small use customer is a customer who consumes not more than 160MWh of electricity per year (section 78 of the Electricity Act).

³⁷ As required by section 11WD of the Gas Act. A gas trading licence cannot be granted until the standard form contract is approved by the Authority. A small use customer is a customer whose consumption of gas is less than 1TJ per year (section 3 of the Gas Act).

³⁸ Section 10(2)(b)(iv) of the Water Act.

³⁹ Section 10(2)(b)(v) of the Water Act.

⁴⁰ Section 99 of the Electricity Act.

⁴¹ Section 11ZQF of the Gas Act.

⁴² Section 70 of the Water Act.

- c) information on the customer information management systems used by the applicant, including any billing systems;
- d) if the applicant proposes to provide water services to residential customers, a copy of the applicant's proposed financial hardship policy; and
- e) if the applicant proposes to sell gas to small use customers (gas trading licence), a copy of the applicant's proposed customer safety awareness program which complies with the *Gas Standards (Gas Supply and System Safety) Regulations 2000*⁴³. Alternatively, an applicant may provide a copy of its proposed customer safety awareness program within 3 months of licence grant.⁴⁴

Other regulatory approvals

3.4.17 A description and written evidence of the status of applications for environmental, planning and public health approvals, permits or licences. It is recommended that these are progressed to the extent possible prior to applying for a licence from the Authority.

Relevant experience

- 3.4.18 A description of the applicant's prior experience and/or appropriate training related to the nature of the proposed activity.
- 3.4.19 A listing of the key personnel (including contractors) used to install and/or operate and/or maintain the supply of electricity, gas or water services with a summary of the key qualifications of the key personnel (including contractors).
- 3.4.20 The applicant's policy on the use of sub-contractors.
- 3.4.21 If the applicant intends to rely on another entity to provide staff and resources, the applicant should provide a summary of the relationship between the applicant and this entity. This should include evidence of agreements to provide services and a summary of this other entity's relevant experience and technical capacity to meet the relevant requirements of the licence.
- 3.4.22 Details of any relevant licences or approvals held by the applicant for the supply of electricity, gas or water services in Western Australia or elsewhere.

Other equivalent licences

- 3.4.23 The applicant must provide details of any other equivalent licence held by it, or its associated or controlled entities under the law of another State or Territory, including a signed statutory declaration giving particulars of:
 - a) the applicant's interstate licence(s); and

⁴³ These regulations are administered by the Department of Commerce.

⁴⁴ Clause 10.5A(1) of the *Compendium of Gas Customer Licence Obligations* requires a licensee to lodge with the Authority a gas customer safety awareness program within 3 months of the licensee being subject to the Compendium.

- b) details of any regulatory action taken by a regulator in another jurisdiction in relation to the applicant or its associated or controlled entities, including:
 - i) details of any breaches of those licences where a penalty or enforcement order was applied;
 - ii) details of any current or ongoing investigation of alleged breaches of those licences; and
 - iii) a written authorisation for the Authority to seek information about the applicant or associated or controlled entities and its interstate licences from relevant regulatory bodies in other jurisdictions.

3.5 Public interest information

[Sections 8(5) and 9 of the Electricity Act, Sections 11H(3) and 11K of the Gas Act and Sections 11 and 46 of the Water Act]

The Authority must not grant a licence unless the Authority is satisfied that it would not be contrary to the public interest. When considering the public interest, the Authority must take into account the following:

3.5.1 Electricity and gas:

- a) environmental considerations; and
- b) social welfare and equity considerations, including community service obligations;
- c) economic and regional development factors, including employment and investment growth;
- d) the interests of customers generally or of a class of customers;
- e) the interests of any licensee, or applicant for a licence, in respect of the area or areas to which the order, if made, would apply;
- f) the importance of competition in electricity and gas industry markets;
- g) the policy objectives of government in relation to the supply of electricity and gas; and
- h) any other matters considered appropriate and relevant which may impact on the public interest.

3.5.2 Water:

- a) environmental considerations, including the value of ecologically sustainable development; and
- b) public health considerations relating to the provision of reliable water services.

For all licences, the Authority may consider other factors in assessing whether the application is not contrary to the public interest. Hence, applicants need to address the relevant factors in their licence application (including the factors above).

3.6 Licence Supply and Operating Areas

[Section 5 of the Electricity Act, Section 11E of the Gas Act, and Section 9 of the Water Act]

A licence must be designated to apply to one or more areas of the State specified in the licence.

3.6.1 An applicant must specify in the application the proposed area within which it intends to provide a licensed electricity, gas or water service. The licence, supply or operating area must be shown on a map(s) and applicants should consult with the Authority on the development of the map(s). Map(s) should:

- a) identify the location of any infrastructure and cadastral boundaries⁴⁵, or, in the case of retail or trading licences, identify where supply will take place. The map(s) should include any areas where infrastructure extends over other private or public land; and
- b) unless otherwise agreed with the Authority, be submitted electronically both in pdf format and in one of the following digital formats:
 - i) dgn;
 - ii) dxf;
 - iii) dwg; or
 - iv) shapefile.

Examples of maps can be found on the Authority's website and can be discussed with the Authority's licensing staff.

3.7 Licence application fees

[Sections 10, 16, 18 and 21 of the Electricity Act, Sections 11L, 11P, 11R, 11VA of the Gas Act, and Sections 10, 13 and 15 of the Water Act]

3.7 The applicable licence application fees are prescribed in the:

- a) *Electricity Industry (Licensing Fees) Regulations 2005*
- b) *Energy Coordination (Licensing Fees) Regulations 1999*
- c) *Water Services Regulations 2013*

⁴⁵ A map showing information associated with information from the land register such as the boundaries of land parcels.

Fees may be payable for the grant, transfer, amendment or renewal of a licence as shown in the following table.

Licence Application Fees

Licence Type	Licence Application Fee
Electricity licence grant, transfer amendment or renewal	\$500
Gas licence grant, transfer or renewal	\$375
Gas licence amendment	\$500 or 10% of the annual licence fee whichever is the greater
Water licence grant	\$500
Water licence transfer or renewal	\$1

Applicants should note that the Government is currently reviewing the licence application fee structure. Applicants are encouraged to refer to the licence fee regulations at the time of application or contact the Authority to determine the applicable fees.

Payment of licence application fees

Applicants can pay the applicable licence application fee by cheque made payable to 'Economic Regulation Authority'.

Alternatively, applicants can pay by electronic funds transfer (**EFT**). Applicants wishing to pay by EFT should contact the Authority for further details.

4 Authority's decision making processes

Section 4 explains the matters the Authority must take into account in considering a licence application and the timeframe within which the Authority will make its decision. It also explains the process for appealing the Authority's decision.

4.1 What matters does the Authority take into account in considering a licence application?

[Sections 9, 19, 50 and 100 of the Electricity Act, Sections 11K, 11S, 11WE and 11ZQG of the Gas Act, and Sections 11 and 70 of the Water Act]

In assessing a licence application, the Authority must consider whether:

- the applicant has or will acquire, within a reasonable time and then is likely to retain, the financial and technical resources or ability to undertake the activities to be authorised by the licence; and
- the grant of the licence would not be contrary to the public interest.

The Authority may further only grant certain licences if the applicant is, or will become, a member of the Energy & Water Ombudsman scheme and/or has a standard form contract approved by the Authority.

Technical & Financial assessment

The Authority will generally engage both a technical and a financial consultant to assist the Authority in assessing whether the applicant has the technical and financial resources to undertake the activities authorised by the licence.

As consultants must provide their advice based upon the information contained within the applicant's licence application, it is important that the application is clear, internally consistent and contains all the necessary supporting evidence.

Public interest assessment (public consultation)

Upon receipt of an application, the Authority will issue a public notice on the Authority's website seeking public comment on the application. A summary of the application provided by the applicant will be made public for consultation purposes.

The notice will seek comments on the application consistent with the Authority's *Public Consultation Guidelines for Electricity, Gas and Water Licences and Electricity and Gas Standard Form Contracts*.⁴⁶

The Authority may publish additional information contained in the application. Therefore, it is important that any confidential business or commercial information supplied in the application is clearly identified.

One of the purposes of the public consultation process is to inform the Authority whether the grant of the licence would be contrary to the public interest.

Standard form contract

[Section 50 of the Electricity Act and Section 11WE of the Gas Act]

If the applicant:

- has applied for a:
 - Electricity Retail Licence;
 - Electricity Integrated Regional Licence (for retail services); or
 - Gas Trading Licence; and
- proposes to sell energy to small use customers,

the Authority must approve the applicant's standard form contract before the licence may be granted.

⁴⁶ *Public Consultation Guidelines for Electricity, Gas and Water Licences and Electricity and Gas Standard Form Contracts* can be found on the Authority's website: www.erawa.com.au -> Licensing -> Electricity, Gas or Water -> Regulatory Guidelines.

Energy & Water Ombudsman

[Section 100 of the Electricity Act, Section 11ZQG of the Gas Act, and Section 70 of the Water Act]

The Authority may only grant the following licences if the applicant is or will become a member of the Energy & Water Ombudsman scheme:

- Electricity Retail Licences, Electricity Distribution Licences and Electricity Integrated Regional Licences (for retail or distribution services) if the applicant proposes to sell electricity to small use customers;
- Gas Trading Licences and Gas Distribution Licences; and
- Water Licences.

If the Authority is satisfied that all of the relevant conditions have been met, the Authority must grant a licence.

4.2 How long does it take for a licence to be granted?

[Section 19 of the Electricity Act, Section 11S of the Gas Act, and Section 11 of the Water Act]

The Authority must take all reasonable steps to consider and make a decision on whether to grant or reject a licence within 90 days of receiving a complete application.

The length of the process will vary depending on the complexity of the application and the quality of information contained within the application.

Applicants can assist the Authority to reduce the time to make a decision by liaising with the Authority prior to making a formal application, and by providing all relevant information in line with the Guidelines at the time of application.

4.3 When will I be informed of the Authority's decision?

[Section 23 of the Electricity Act, Section 11T of the Gas Act, and Section 47 of the Water Act]

The Authority will inform the applicant of its decision to grant the licence in writing. In addition, the Authority will publish a notice of its decision on its website and in the Government Gazette.

If the Authority decides to refuse to grant a licence to the applicant, the Authority must ensure that written notice of its decision together with a statement of reasons for the decision is given to the applicant within 14 days after the decision is made.

4.4 Can I appeal the Authority's decision?

[Section 130 of the Electricity Act, Section 11ZH of the Gas Act and Section 44 of the Water Act]

A person or class of people adversely affected by a decision or direction of the Authority under the Electricity Act may apply to the Western Australian Electricity Review Board for a review of the decision or direction.

A person or class of people adversely affected by a decision or direction of the Authority under the Gas Act or Water Act may apply to the State Administrative Tribunal as defined in the *State Administrative Tribunal Act 2004 (WA)* for a review of the decision or direction.

5 Licence terms and conditions

The following sections provide information on the terms and conditions that may be included within licences.

5.1 What terms and conditions can the Authority impose upon a licensee?

[Sections 11, 12, 13, 14, 54, 58, 65, 76, 82, 101 and Schedule 1 of the Electricity Act, Sections 11M, 11WG, 11Y, 11Z, 11ZA, 11ZAJ, 11ZPP, 11ZQH and Schedule 1A of the Gas Act, and Sections 12, 21, 22, 23, 24, 25, 26, 27, 29 and 30 of the Water Act]

Licence conditions may be imposed by legislative enactment by the WA State Government or by the Authority. Licence terms and conditions imposed by the Authority may include:

- Specific requirements to comply with specified industry codes and standards.
- Requirements to keep accounting and other records.
- Any specific limitation upon a licensee's business activities.
- The methods or standards to be applied in supplying the service.
- Procedures for the amendment, cancellation or surrender of a licence.
- Requirements for the provision of information by the licensee.
- The regulation of construction and/or operation of works and systems.
- The range of functions that may be performed by the licensee including performance criteria and community service obligations.
- The obligations with respect to public authorities and other licence holders.
- Provisions governing disposal and transfer of property and licences.

Applicants are encouraged to view relevant licences on the Authority's website to gain an appreciation of the terms and conditions that are likely to apply in their case.

5.2 How much are annual licence fees?

[Section 17(1) of the Electricity Act and Section 11Q of the Gas Act]

It is a condition of each licence that the licensee must pay the applicable fees.

The Government prescribes the ongoing (annual) licence fees for the different licences in regulations.⁴⁷ Currently, there are no annual fees for water services operating licences.

Annual licence fees vary significantly depending on the nature and size of the licensee's operation. The annual licence fee is payable within one month of the grant of an electricity or gas licence and annually thereafter.

Applicants should note that the Government is currently reviewing the annual licence fee structure. Applicants are encouraged to contact the Authority to determine the applicable annual licence fees.

The annual licence fees for electricity and gas applicable at the time these Guidelines were published are shown below.

Annual electricity generation licence fees⁴⁸

Installed Capacity (MW)	Licence Fee
<5	\$500
5 to < 50	\$2,000
50 to <100	\$3,500
100 to <1000	\$5,000
≥ 1000	\$7,500

Annual electricity transmission licence fees⁴⁹

Transmission System Length (km)	Licence Fee
< 1	\$500
1 to < 10	\$3,750
10 to < 100	\$7,500
100 to <1000	\$15,000
≥ 1000	\$20,000

⁴⁷ The regulations can be found on the State Law Publisher's website: <http://www.slp.wa.gov.au>.

⁴⁸ Regulation 4 of the *Electricity Industry (Licensing Fees) Regulations 2005*.

⁴⁹ Regulation 5 of the *Electricity Industry (Licensing Fees) Regulations 2005*.

Annual electricity distribution licence fees⁵⁰

Distribution System Length (km)	Licence Fee
< 1	\$500
1 to < 10	\$5,000
10 to < 100	\$10,000
100 to < 1,000	\$20,000
≥ 1,000	\$25,000

Annual electricity retail licence fees⁵¹

Number of Customers	Licence Fee
< 100	\$1,000
100 to < 1,000	\$7,500
1,000 to < 5,000	\$12,500
5,000 to < 25,000	\$20,000
≥ 25,000	\$35,000

Integrated regional licence fees⁵²

Integrated regional licence fees consist of the aggregate of the individual supply elements outlined above for the services (generation, transmission, distribution and/or retail) authorised under the licence.

Annual gas distribution licence fees⁵³

Distribution System Length (km)	Licence Fee
< 5	\$150
<ul style="list-style-type: none"> • Distribution network transporting gas to small use customers only • In any other case 	\$1,500
5 to < 20	\$2,250
20 to < 100	\$3,750
≥ 100	\$7,500

⁵⁰ Regulation 6 of the Electricity Industry (Licensing Fees) Regulations 2005.

⁵¹ Regulation 7 of the Electricity Industry (Licensing Fees) Regulations 2005.

⁵² Regulation 8 of the Electricity Industry (Licensing Fees) Regulations 2005.

⁵³ Regulation 4(2)(a), in conjunction with Schedule 1, of the *Energy Coordination (Licensing Fees) Regulations 1999*.

Annual gas trading licence fees⁵⁴

Number of Customers	Licence Fee
< 100	\$150
100 to < 500	\$1,500
500 to < 2000	\$3,000
≥ 2000	\$4,500

5.3 What is the maximum term of a licence?

[Section 15 of the Electricity Act, Section 110 of the Gas Act, and Section 14 of the Water Act]

Each licence specifies the term for which it is granted. Applicants should specify in their application the licence term (period) required and the reasons for that request.

The Electricity Act allows a retail licence to be granted for up to 15 years. Any other classification of an electricity licence may be granted for up to 30 years.

The Gas Act allows a trading licence to be granted for up to 10 years and a distribution licence can be granted up to 21 years.

The Water Act allows a water services operating licence to be granted up to 25 years.

6 How are licences enforced?

[Sections 32, 33, and 34 of the Electricity Act, Sections 11ZB, 11ZC, 11ZD, 11ZOR, 11ZOS and 11ZOT of the Gas Act, and Sections 31, 32 and 33 of the Water Act]

If the Authority believes that a licensee has contravened the terms and conditions of its licence, it may send a notice to the licensee requiring the contravention to be rectified.

If the Authority is not satisfied that this notice has been reasonably complied with, the Authority may do one or more of the following:

- Electricity and gas:
 - serve the licensee a letter of reprimand;
 - order the licensee to pay a penalty of up to \$100,000; or
 - direct the licensee to rectify the contravention.
- Water:
 - order the licensee to pay a penalty of up to \$150,000;

⁵⁴ Regulation 4(2)(b), in conjunction with Schedule 2, of the *Energy Coordination (Licensing Fees) Regulations 1999*.

- remedy the failure; or
- amend the water licence.

If necessary, the Authority may authorise persons to enter any premises to rectify the contravention. In this case, the Authority may recover the costs for rectifying the contravention.

Before the Authority can impose a penalty or cause action to be taken to rectify a contravention, it must notify the licensee and give the licensee a reasonable opportunity to make a submission on the matter. However if the public's health or safety is or may be at risk, the Authority does not need to provide notice to the licensee and the licensee is not entitled to make a submission on the matter.

7 How is a licence renewed, transferred or amended?

The Authority, in considering an application for licence renewal, transfer or amendment, may need to undertake a public consultation process (refer *Public Consultation Guidelines – For Electricity, Gas & Water Licences and Electricity & Gas Standard Form Contracts*)⁵⁵.

7.1 How is a licence renewed?

[Sections 16 and 19 of the Electricity Act, Sections 11P and 11S of the Gas Act, and Section 13 of the Water Act]

An application for the renewal of a licence must be:

- made in a form approved the Authority; and
- accompanied by the prescribed application fee.

Renewal of a licence is subject to the same test as the grant of a licence. That is, the Authority must⁵⁶/may⁵⁷ renew a licence if it is satisfied that:

- the applicant has or will acquire, within a reasonable time and then is likely to retain, the financial and technical resources or ability to undertake the activities to be authorised by the licence; and
- the grant of the licence would not be contrary to the public interest.

Therefore, an application for renewal should address the same criteria as an application for a new licence (see Section 3).

⁵⁵ [Public Consultation Guidelines for Electricity, Gas and Water Licences and Electricity and Gas Standard Form Contracts](#), see www.erawa.com.au -> Licensing -> Industry (Electricity, Gas or Water) -> Regulatory Guidelines.

⁵⁶ Section 19 of the Electricity Act and Section 11S of the Gas Act.

⁵⁷ Section 13 of the Water Act.

7.2 How is a licence transferred?

[Sections 18 and 19 of the Electricity Act, Sections 11R and 11S of the Gas Act, and Section 15 of the Water Act]

To transfer a licence, the existing licensee must advise the Authority in writing that it wishes to transfer its licence.

The person to whom the licence is to be transferred must make an application for the transfer of the licence. An application of the transfer of a licence must be:

- made in a form approved the Authority; and
- accompanied by the prescribed application fee.

Transfer of a licence is subject to the same test as the grant of a licence. That is, the Authority must⁵⁸/may⁵⁹ renew a licence if it is satisfied that the applicant:

- the applicant has or will acquire, within a reasonable time and then is likely to retain, the financial and technical resources or ability to undertake the activities to be authorised by the licence; and
- the grant of the licence would not be contrary to the public interest.

Therefore, an application for transfer should address the same criteria as an application for a new licence (see Section 3).

7.3 How is a licence amended?

[Sections 21 and 22 of the Electricity Act, Sections 11VA and 11W of the Gas Act, and Sections 17 and 18 of the Water Act]

A licence may be amended upon request by the licensee or on the initiative of the Authority.

Licence amended upon request by the licensee

A licensee may apply to the Authority at any time to amend its licence.

A licence amendment application must be:

- made in a form approved the Authority; and
- accompanied by the prescribed application fee.

The form for licence amendment applications is included in Appendix 1 of these guidelines.

The Authority may only amend a water licence if satisfied that it would not be contrary to the public interest to do so.

⁵⁸ Section 19 of the Electricity Act and Section 11S of the Gas Act.

⁵⁹ Section 15 of the Water Act.

Licence amended on the initiative of the Authority

All licences contain provisions that set out how the Authority may amend the terms and conditions of the licence, including any notification requirements.

Subject to the terms of the licence, the Authority will provide the licence holder with an opportunity to comment on any proposal to amend its licence.

8 How is a licence surrendered or cancelled?

8.1 Surrender

[Schedule 1, clause 1(l) of the Electricity Act, Division 7 of Part 2A and Schedule 1A, clause 1(g) of the Gas Act and Section 18 of the Water Act]

A licence may contain conditions specifying procedures for surrender⁶⁰ and cancellation of the licence.

Electricity and gas

Electricity and gas licences require the licensee to notify the Authority in writing of the date the licensee wishes the surrender to be effective and the reasons for the surrender⁶¹.

The Authority will publish the licensee's notice of the proposed surrender.

A surrender of licence will only take effect on the later of the day that:

- the Authority publishes a notice of the surrender in the Government Gazette; and
- the licensee hands the licence back to the Authority.

Water

Water licences provide that the licensee may apply to the Authority to request surrender (cancellation) of their licence by written notice.

The Authority may only cancel a water licence if satisfied that it would not be contrary to the public interest to do so.

⁶⁰ Section 18 of the Water Act use the terminology 'cancellation'.

⁶¹ Including the reasons why it would not be contrary to the public interest for the surrender of the licence to be effective from that date.

8.2 Cancellation

[Section 35 of the Electricity Act, Section 11ZE of the Gas Act, and Section 34 of the Water Act]

A licence may be cancelled by the Governor if a licensee:

- has not complied with a term or condition of the licence and the failure is material in terms of the operation of the licence (as a whole);
- has failed to pay a licence fee (electricity and gas licences);
- is an externally administered corporation within the meaning of the Corporations Act 2001 (Cwlth);
- is otherwise in the process of being wound-up, is a bankrupt or is a person whose affairs are under insolvency laws (water licences);
- has, within a period of 24 months, been convicted of more than 3 offences for which the prescribed punishment is a fine of \$10,000 or more or imprisonment for 12 months or more (electricity and gas licences);
- has, within a period of 12 months been convicted of more than 3 offences for which the statutory penalty is a fine of \$30,000 or more or imprisonment for 12 months or more (water licences); or
- has ceased to exist (water licences).

A person or a class of people who had their licence cancelled may seek judicial review of that decision in the Supreme Court of WA.

Appendix 1: Licence Application Form



Electricity Industry Act 2004
Energy Coordination Act 1994
Water Services Act 2012

Licence Application Form

Electricity, Gas & Water Licences

Introduction

Licence applications to the Economic Regulation Authority (**Authority**) are submitted under the provisions of the *Electricity Industry Act 2004*, the *Energy Coordination Act 1994* and the *Water Services Act 2012* (**Electricity Act, Gas Act and Water Act**). Applicants should be aware of the licensing provisions of the Electricity, Gas and Water Acts. While the Authority provide advice in relation to the information required as part of the licensing process, it is the responsibility of the applicant to ensure that the application complies with the Electricity, Gas and Water Acts as appropriate to the type of application.

The application should comprise this form and attachments addressing the information required to support the application as set out in the Licence Application Guidelines and Form (**Guidelines**). All information (including plans) should be submitted to the Authority together with an electronic copy of the entire application. The relevant application fee must accompany this application.

If the applicant comprises more than one legal person (e.g. a joint venture), the application should be completed with respect to each person.

Confidential information

The Authority is bound by its obligations relating to confidential information in the *Public Sector Management Act 1994 (WA)* and the *Economic Regulation Authority Act 2003 (WA)*.

Accordingly, the Authority has a very strict privacy policy regarding sensitive business and commercial information which is provided to the Authority as part of an application for a licence.

The Authority is also bound by the *Freedom of Information Act 1992 (WA)* (**FOI Act**). Section 33 of the FOI Act requires that the Authority must consult with the party who has provided it with commercial or business information before providing access to this material to a third party.

Further, the Authority will not provide information to a third party applicant under the FOI Act if the disclosure would reveal:

- trade secrets of a person;
- information (other than trade secrets) that has a commercial value to a person and disclosure could reasonably be expected to destroy or diminish that commercial value; or
- information about the business, professional, commercial or financial affairs of a person and disclosure could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of that kind to the Government or to an agency.

Finally, under the FOI Act, if the Authority resolves to release information containing commercial or business interests of a party, then that party can ask the Authority to review the decision internally or may also have the decision reviewed by the Information Commissioner⁶².

For this reason, the Authority recommends that applicants identify information that may fall within the provisions of section 33 of the FOI Act in that the information contain:

- information (other than trade secrets) that has a commercial value to the business; or
- any other information concerning the business, professional, commercial or financial affairs of the business.

The Authority seeks the applicant's views as to whether the documents contain matter that is considered exempt matter under clause 4 of Schedule 1 of the FOI Act. If the Authority decides that this matter is an exempt matter the Authority will refuse access to the documents by any third parties.

⁶² The Information Commissioner's contact details are available at: <http://www.foi.wa.gov.au>

Section A: Applicant Details

All applicants must complete Section A.

Applicant Details	
Name	<i>Note: Add more space as necessary</i>
Registered office (if a Corporation)	<i>Note: Add more space as necessary</i>
Principal Place of Business (if different from Registered Office)	<i>Note: Add more space as necessary</i>
Contact Details	
Primary contact name	<i>Note: Add more space as necessary</i>
Mail Address	<i>Note: Add more space as necessary</i>
Email	<i>Note: Add more space as necessary</i>
Telephone	<i>Note: Add more space as necessary</i>
Mobile	<i>Note: Add more space as necessary</i>
Company Structure	
ABN or ACN	<i>Note: Add more space as necessary</i>
Legal structure of applicant	<i>Note: Add more space as necessary</i>

Place of incorporation	<i>Note: Add more space as necessary</i>
Company Directors or Principals	<i>Note: Add more space as necessary</i>
A description of the entity's core business	<i>Note: Add more space as necessary</i>
Brief description of the applicant's business structure and key organisational relationships including associated and/or controlled entities	<i>Note: Add more space as necessary</i>

Section B: New Licence

Applicants applying for a **new licence** must complete Section B.

Licence Classification

Electricity Licence		
Type of licence application	<input type="checkbox"/> Generation <input type="checkbox"/> Transmission <input type="checkbox"/> Distribution <input type="checkbox"/> Retail <input type="checkbox"/> Integrated Regional	
For Generation and Integrated Regional Licences	Installed capacity	megawatts
For Transmission and Integrated Regional Licences	Transmission system length	kilometres
For Distribution and Integrated Regional Licences	Distribution system length	kilometres
For Retail and Integrated Regional Licences	Number of large use customers	
For Retail and Integrated Regional Licences	Number of small use customers	
Gas Licence		
Type of licence application	<input type="checkbox"/> Distribution <input type="checkbox"/> Trading	
For Distribution Licences	Distribution system length	kilometres
For Trading Licences	Number of small use customers	
Water Licence		
Type of licence application	<input type="checkbox"/> Water Supply (potable) <input type="checkbox"/> Water Supply (non-potable) <input type="checkbox"/> Drainage services <input type="checkbox"/> Irrigation services <input type="checkbox"/> Sewerage services	
For all Water Licence Classifications	Water system length	metres /kilometres)
For all Water Licence Classifications	Number of standard terms and conditions customers	
For all Water Licence Classifications	Number of non-standard terms and conditions customers	

Area(s) to be covered by the licence

Electricity Licence	
Licence area(s) and/or address to be covered by this licence	Licence area name: Address/location:
Gas Licence	
Gas supply area(s) to be covered by this licence	<input type="checkbox"/> Kimberley <input type="checkbox"/> Pilbara <input type="checkbox"/> Gascoyne <input type="checkbox"/> Mid-west <input type="checkbox"/> Wheatbelt <input type="checkbox"/> Goldfields-Esperance <input type="checkbox"/> Great Southern <input type="checkbox"/> Coastal
Water Licence	
Water Services Operating Area(s) and/or address to be covered by this licence	Operating area name: Address/location:

Summary description of licence activity

Services/service model	
Brief description of service(s) or service model intended	<i>Note: Add more space as necessary</i>
Service/infrastructure/works	
Brief description of service infrastructure/works	<i>Note: Add more space as necessary</i>
Other regulatory approvals	
Provide summary information on status of other regulatory approvals required	<i>Note: Add more space as necessary</i>

Section D: Renewal or Transfer of Licence

Applicants applying for the **renewal or transfer** of an existing licence must complete Section D.

Licence details	
Application for	<input type="checkbox"/> Renewal <input type="checkbox"/> Transfer
Licence	<p>Electricity</p> <input type="checkbox"/> Generation EGL _____
	<input type="checkbox"/> Transmission ETL _____
	<input type="checkbox"/> Distribution EDL _____
	<input type="checkbox"/> Retail ERL _____
	<input type="checkbox"/> Integrated Regional EIRL _____
	<p>Gas</p> <input type="checkbox"/> Distribution GDL _____
	<input type="checkbox"/> Trading GTL _____
	<p>Water</p> <input type="checkbox"/> Water Supply WL _____
	(potable) WL _____
	<input type="checkbox"/> Water Supply (non- WL _____
	potable) WL _____
	<input type="checkbox"/> Drainage services WL _____
	<input type="checkbox"/> Irrigation services WL _____
	<input type="checkbox"/> Sewerage services WL _____
Expiry date (renewal only)	<i>Note: Add more space as necessary</i>
Services/service model	
Brief description of service(s) or service model intended	<i>Note: Add more space as necessary</i>
Service/infrastructure/works	
Brief description of service infrastructure/works	<i>Note: Add more space as necessary</i>
Other regulatory approvals	
Provide summary information on status of other regulatory approvals required	<i>Note: Add more space as necessary</i>

Section F: Certification

All applicants must complete Section F.

Certification – Acknowledgement of commitment

I declare that the information provided in this application is correct to the best of my knowledge and I am aware of the requirements under the *Electricity Industry Act 2004*, *Energy Coordination Act 1994*, or *Water Services Act 2012* for the licence being applied for and that I have the authority to make this application on behalf of the above entity.

Signed by or on behalf of the applicant.

[If the applicant is a company, this certification must be signed by director(s) / company secretary (as applicable) unless a relevant authority to bind the applicant is provided with this application]

Name _____ Name _____

Position _____ Position _____

Director

Director / Company Secretary

Signed _____ Signed _____

Date / /

Date / /

Appendix 2: Licence Application Checklist

In order to assess a licence application for a new licence or the renewal or transfer of an existing licence, specific information regarding the proposed operation area and corporate, financial and technical information is required. Please include this completed document with your application.

Application Summary

Guidelines reference	Information required	Information provided	Application reference	
3.1.1	A description of the applicant's structure and key organisational relationships.	<input type="checkbox"/>	Document	Page
3.1.2	A description of the service(s) or service model intended.	<input type="checkbox"/>	Document	Page
3.1.3	A description of the service infrastructure/works involved	<input type="checkbox"/>	Document	Page
3.1.4	Information on the status of other essential regulatory approvals required	<input type="checkbox"/>	Document	Page
3.1.5	A description of any public consultation or stakeholder engagement processes undertaken concerning the licence project.	<input type="checkbox"/>	Document	Page

Corporate information required (refer to section 3.2)

Guidelines reference	Information required	Information provided	Application reference	
3.2.1	Identity information including legal and, if relevant, trading name and ABN or ACN	<input type="checkbox"/>	Document	Page
3.2.2	Address and contact details for entity	<input type="checkbox"/>	Document	Page
3.2.3	Name and contact details for primary contact person	<input type="checkbox"/>	Document	Page

3.2.4(a)	Entity profile including a description of core activities	<input type="checkbox"/>	Document	Page
3.2.4(b)	Description of company type	<input type="checkbox"/>	Document	Page
3.2.4(c)	Description of company ownership	<input type="checkbox"/>	Document	Page
3.2.4(d)	A list of any associated and/or controlled entities, including any parent companies.	<input type="checkbox"/>	Document	Page
3.2.4(e)	Articles of association and registration details for the applicant and associated or controlled entities	<input type="checkbox"/>	Document	Page
3.2.5	Degree of control exercised by associated entities over the applicant and how that control is exercised. Information on any other entity the applicant intends to rely on to provide staff, services or resources.	<input type="checkbox"/>	Document	Page
3.2.6	A list of all company directors or principals of the applicant.	<input type="checkbox"/>	Document	Page
3.2.7	A statutory declaration from the company directors or principals of the entity that they have not been or would not be disqualified under the <i>Corporations Act 2001 (Cwlth)</i> from managing corporations.	<input type="checkbox"/>	Document	Page

Financial information required (refer to section 3.3)

Guidelines reference	Information required	Information provided	Application reference	
Current financial position				
3.3.1	Most recent audited general purpose financial reports	<input type="checkbox"/>	Document	Page
3.3.2	Audited financial reports for the last three years (where available)	<input type="checkbox"/>	Document	Page

3.3.3	For new entities, financial information which demonstrates that the applicant has an acceptable financial standing/capacity commensurate with its potential financial exposure	<input type="checkbox"/>	Document	Page
3.3.4	Where the applicant is a subsidiary company, financial reports for the parent company	<input type="checkbox"/>	Document	Page
3.3.5	Copies of any information submitted to ASIC under chapter 2M of the <i>Corporations Act 2001</i> (Cwlth) over the past three years	<input type="checkbox"/>	Document	Page
3.3.6	Declaration from independent auditor or principal financial institution	<input type="checkbox"/>	Document	Page
3.3.7	Information about any risks to the applicant's financial position	<input type="checkbox"/>	Document	Page
Financing				
3.3.8	Extent to which financial obligations are guaranteed by other group companies	<input type="checkbox"/>	Document	Page
3.3.9	Contractual arrangements within any group of companies associated with the licensee	<input type="checkbox"/>	Document	Page
3.3.10	Declaration specifying lenders financing the application and type of funding or support obtained	<input type="checkbox"/>	Document	Page
3.3.11	Evidence that the applicant is able to finance the assets and investment necessary to undertake the licensed activities	<input type="checkbox"/>	Document	Page
Financial projections				
3.3.12	Intended services and related business activities	<input type="checkbox"/>	Document	Page
3.3.13	Projected revenue and expenditure figures for at least 5 years	<input type="checkbox"/>	Document	Page
3.3.14	Methods or principles that will be applied to determine prices or charges	<input type="checkbox"/>	Document	Page

Financial polices				
3.3.15	Financial policies	<input type="checkbox"/>	Document	Page
3.3.16	Pricing policies, methods and procedures (where applicable)	<input type="checkbox"/>	Document	Page

Technical information required (refer to section 3.4)

Guidelines reference	Information required	Information provided	Application reference	
Assets				
3.4.1	Description of the physical environment of the proposed activity and its immediate vicinity	<input type="checkbox"/>	Document	Page
3.4.2	Description of the methods or principles proposed to apply in the provision of water services (water licence applications only)	<input type="checkbox"/>	Document	Page
3.4.3	Description of the supply infrastructure and interconnected infrastructure systems	<input type="checkbox"/>	Document	Page
3.4.4	Construction schedule (where applicable)	<input type="checkbox"/>	Document	Page
3.4.5	The nature and extent of the construction, alteration, operation or maintenance of a distribution system for the transportation of gas (gas distribution licence applications only)	<input type="checkbox"/>	Document	Page
3.4.6	Information about supply connection (where applicable)	<input type="checkbox"/>	Document	Page
3.4.7	Details of the actual and proposed metering arrangements (where applicable)	<input type="checkbox"/>	Document	Page
3.4.8	Methods or standards proposed to apply in the supply of gas (gas licence applications only)	<input type="checkbox"/>	Document	Page
3.4.9	Detailed description of asset management system (where applicable)	<input type="checkbox"/>	Document	Page
Customer contracts				
3.4.10	Proposed standard form contract for electricity (where applicable)	<input type="checkbox"/>	Document	Page

3.4.11	Proposed standard form contract for gas (where applicable)	<input type="checkbox"/>	Document	Page
3.4.12	Proposed standard terms and conditions for the provision of water services (where applicable)	<input type="checkbox"/>	Document	Page
3.4.13	Proposed non standard terms and conditions for the provision of water services (where applicable)	<input type="checkbox"/>	Document	Page
3.4.14	Proposed standard customer contract for water services (where applicable)	<input type="checkbox"/>	Document	Page
Customer information				
3.4.15	Commitment to become or remain a member of an approved ombudsman scheme and to be bound by its decisions (where applicable)	<input type="checkbox"/>	Document	Page
3.4.16	Evidence of compliance with relevant supply industry methods, quality, standards and codes including compliance with relevant consumer protection arrangements (where applicable)	<input type="checkbox"/>	Document	Page
3.4.16(a)	A description of how customer accounts will be managed.	<input type="checkbox"/>	Document	Page
3.4.16(b)	Details on customer information provision policies (e.g. tariffs, fees and charges), customer consultation processes, account enquiries processes, payment arrangements and hardship policies and procedures, complaints and dispute resolution processes, account termination procedures and customer performance measures.	<input type="checkbox"/>	Document	Page
3.4.16(c)	Information on the customer information management systems used by the applicant, including any billing systems.	<input type="checkbox"/>	Document	Page
3.4.16(d)	Proposed financial hardship policy for residential customers (water licences only)	<input type="checkbox"/>	Document	Page
3.4.16(e)	A description of the customer safety awareness program which complies with the <i>gas standards (gas supply and system safety) regulations 2000</i> (gas trading licence only)	<input type="checkbox"/>	Document	Page

Other regulatory approvals				
3.4.17	Description and evidence of the status of applications for other necessary approvals, permits or licences.	<input type="checkbox"/>	Document	Page
Relevant experience				
3.4.18	Prior experience and training	<input type="checkbox"/>	Document	Page
3.4.19	Key personnel	<input type="checkbox"/>	Document	Page
3.4.20	Policy on the use of sub-contractors	<input type="checkbox"/>	Document	Page
3.4.21	Details of relationship with entity supplying staff and resources (where applicable)	<input type="checkbox"/>	Document	Page
3.4.22	Licences or approvals held for the supply of electricity, gas or water services	<input type="checkbox"/>	Document	Page
Other equivalent licences				
3.4.23(a)	Details of other equivalent licence held by it or their associated or controlled entities under the law of another State or Territory including a signed statutory declaration giving particulars of the applicant's interstate licence(s)	<input type="checkbox"/>	Document	Page
3.4.23(b)	The applicant must provide details of any regulatory action taken by a regulator in another jurisdiction in relation to the businesses in 3.4.23(a) above	<input type="checkbox"/>	Document	Page

Public interest information required (refer to section 3.5)

Guidelines reference	Information required	Information provided	Application reference	
Electricity / Gas 3.5.1 Water 3.5.2	Statement and evidence about any information that might assist the Authority forming the view that the application is not contrary to the public interest	<input type="checkbox"/>	Document	Page

Licence, Supply and Operating Areas information required (refer to section 3.6)

Guideline reference	Information required	Information provided	Application reference	
3.6.1	Identify the proposed area within which the applicant intends to provide a licensed electricity, gas or water service (in the specified formats).	<input type="checkbox"/>	Document	Page

Licence Fee

Guidelines reference	Information required	Information provided	Application reference	
3.7	Licence fee paid	<input type="checkbox"/>		