

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

## **Licence Application Guidelines**

Electricity, Gas and Water Licences

8 November 2016

Economic Regulation Authority

 WESTERN AUSTRALIA

## Economic Regulation Authority

4<sup>th</sup> Floor Albert Facey House  
469 Wellington Street, Perth

**Mail to:**

Perth BC, PO Box 8469  
PERTH WA 6849

**T:** 08 6557 7900

**F:** 08 6557 7999

**E:** [records@erawa.com.au](mailto:records@erawa.com.au)

**W:** [www.erawa.com.au](http://www.erawa.com.au)

National Relay Service TTY: 13 36 77  
(to assist people with hearing and voice impairment)

We can deliver this report in an alternative format for those with a vision impairment.

© 2016 Economic Regulation Authority. All rights reserved. This material may be reproduced in whole or in part provided the source is acknowledged.

**CONTENTS**

<b>1 Introduction</b>	<b>1</b>
<b>2 Do you need a licence?</b>	<b>2</b>
2.1 Electricity	2
2.2 Gas	4
2.3 Water	5
<b>3 Licence application and assessment process</b>	<b>7</b>
3.1 How do you lodge an application?	7
3.2 How is confidential information treated?	8
3.3 Assessment process	9
3.4 ERA decision	10
3.5 Can you appeal of ERA's decision?	11
<b>4 What information is required?</b>	<b>11</b>
4.1 Application summary	12
4.2 Corporate information	13
4.3 Financial information	13
4.4 Technical information	15
4.5 Public interest information	19
4.6 Licence Supply and Operating Areas	20
<b>5 Licence amendments, renewals, or transfers</b>	<b>20</b>
5.1 How to apply for a licence amendment?	21
5.2 How to apply for a licence renewal?	21
5.3 How to apply for a licence transfer?	22
<b>6 How to apply for a licence surrender or cancellation?</b>	<b>22</b>
<b>7 Obligations of licensees</b>	<b>23</b>
7.1 Licence conditions	23
7.2 Licence fees	23
7.3 Enforcement	25
7.4 Cancellation by the Governor	26
<b>Appendix 1: Certification</b>	<b>27</b>
<b>Appendix 2: Licence Application Checklist</b>	<b>28</b>

# 1 Introduction

This guideline is for businesses wanting to apply for:

- a licence to generate, transmit, distribute or sell electricity;
- a licence to distribute or sell gas to small use customers;<sup>1</sup>
- a licence to provide a water service; or
- an amendment, transfer, renewal, surrender or cancellation of a licence.

As the Western Australian regulator for electricity, gas and water services licences, the Economic Regulation Authority (**ERA**) responsibilities include assessing licence applications from businesses that wish to provide, or already provides, the above services.

This guideline seeks to address some of the key questions that you may have as a potential licence applicant.

## **Do you need a licence?**

Section 2 sets out who needs a licence and who does not need a licence.

## **How do you apply for a licence?**

Section 3 provides an overview of the licence application process including how you apply for a licence, what is expected of you during the application process, how long the application process takes, what the licence application fees are, how the ERA makes its decision, and how you can appeal the ERA's decision.

## **What information must you include?**

If you wish to apply for a new licence, section 4 sets out the information requirements that must be included in a licence application.

If you already have a licence and wish to apply for a licence amendment, renewal or transfer, section 5 sets out the information requirements that must be included in an application.

If you already have a licence and wish to apply to surrender that licence, section 6 sets the information requirements for an application.

## **What are your obligations as a licensee?**

Section 8 outlines the licence terms and conditions the ERA may impose on a licensee, the costs associated with holding a licence and the costs of holding a licence. It also outlines the ERA's enforcement framework in the event a licensee breaches the conditions of the licence, as well as the circumstances in which the Governor may cancel your licence.

---

<sup>1</sup> The Gas Act (section 11G(2)) requires a licence to sell gas to small use customers (those who consume less than 1 terajoule of gas per year).

The ERA has developed these guidelines in accordance with the applicable legislation. While the ERA has taken care to compile the requirements for licence applications, the summarised descriptions of the relevant legislation for the supply of electricity, gas or water do not contain all material terms of those laws. Therefore, this document is not a substitute for legal advice. You should not act based on any matter contained in this document without obtaining appropriate professional advice.

## 2 Do you need a licence?

The following acts set out what activities require a licence:<sup>2</sup>

- Part 2 of the *Electricity Industry Act 2004* (**Electricity Act**)
- Part 2A of the *Energy Coordination Act 1994* (**Gas Act**)
- Part 2 of the *Water Services Act 2012* (**Water Act**)

As a licence applicant, you should familiarise yourself with the licensing requirements of the relevant act and its subsidiary legislation.

To assist you, the following sections describe the activities that require a licence, and 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.

### 2.1 Electricity

If you intend to, or currently, generate, transmit, distribute or sell electricity, you are required to hold one of the following categories of electricity licences:

- A generation licence, which authorises the licensee to construct and operate one or more generating works; or to operate one or more generating works.
- A transmission licence, which authorises the licensee to construct and operate one or more transmission systems;<sup>3</sup> or to operate one or more transmission systems.
- A distribution licence, which authorises the licensee to construct and operate one or more distribution systems;<sup>4</sup> or to operate one or more distribution systems.
- A retail licence, which authorises the licensee to sell electricity to customers.
- An integrated regional licence, 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.

---

<sup>2</sup> You can obtain copies of these acts and associated codes and regulations from the State Law Publisher's website: [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

<sup>3</sup> The Electricity Act (section 3) 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.

<sup>4</sup> The Electricity Act (section 3) 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.

## Activities outside of the scope of the Electricity Act

Under the Electricity Act, you are 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 self-supply of electricity. That is, for consumption by:<sup>5</sup>

- 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.

Similarly, if you are an electricity generator, you do not require retail licence, if you sell electricity solely for consumption by another person on the premises where the generating works are located.<sup>6</sup>

Finally, you do not require an electricity retail licence if you sell electricity to a person who is not the end use customer. For example, a generator who sells electricity solely to retailers is not required to hold an electricity retail licence.

## Exempt activities

The Minister for Energy can exempt a business or a class of businesses from electricity licence requirements.<sup>7</sup>

### Class exemptions

The *Electricity Industry Exemption Order 2005*<sup>8</sup> 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.

---

<sup>5</sup> The Electricity Act (section 7(5)).

<sup>6</sup> The Electricity Act (section 7(6)).

<sup>7</sup> The Electricity Act (section 8).

<sup>8</sup> The *Electricity Industry Exemption Order 2005* ([www.slp.wa.gov.au](http://www.slp.wa.gov.au)).

If you own or operate a caravan park, you may also be exempt under the *Electricity Industry (Caravan Park Operators) Exemption Order 2005*.<sup>9</sup> This exemption is subject to the conditions specified in the exemption order.

You should review the exemption orders to determine if you are exempt from licence requirements, and if an exemption is subject to any conditions. If uncertain about the legislative requirements, you should discuss the exemption orders with the Public Utilities Office, and/or seek your own legal advice.

### Applying for an individual exemptions

If you do not meet the requirements for a class exemption, you can apply to the Public Utilities Office for an individual licence exemption under the Electricity Act. The *Electricity Industry Exemption Order 2005* also includes individual electricity licence exemptions.

The Public Utilities Office has a standalone framework for licence exemption applications in relation to solar power purchase agreement providers. You can find information about this process in the Public Utilities Office's "Licence Exemption Application Guidelines: Solar Power Purchase Agreement Providers".<sup>10</sup>

If you consider applying for an individual licence exemption, you should review the exemption orders and discuss a licence exemption application with the Public Utilities Office.<sup>11</sup>

## 2.2 Gas

If you intend to, or currently, distribute or sell gas through a gas distribution system<sup>12</sup> you are required to hold one of the following gas licences:<sup>13</sup>

- A distribution licence, which authorises the licensee to construct and operate a distribution system, or to operate a distribution system.
- A gas trading licence, which authorises the licensee to sell gas transported through a distribution system to small use customers.<sup>14</sup>

### *Activities outside of the scope of the Gas Act*

Under the Gas Act, you are not required to hold a gas licence if:

- The gas is not distributed or sold through a distribution system. For example, the sale of bottled gas does not require a trading licence.
- The gas is sold to a person who is not a small use customer.

<sup>9</sup> The *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](http://www.slp.wa.gov.au).

<sup>10</sup> [www.finance.wa.gov.au](http://www.finance.wa.gov.au) > Public Utilities Office > [Licence exemption applications](#).

<sup>11</sup> Contact details for the Public Utilities Office are available here: [www.finance.wa.gov.au](http://www.finance.wa.gov.au) > [Contact Us](#).

<sup>12</sup> A Distribution system is a system of pipelines designed to operate at a pressure of less than 1.9 megapascals (Gas Act, section 3).

<sup>13</sup> The Gas Act (section 11D)

<sup>14</sup> A small use customer is one that consumes less than 1 terajoule of gas per year (Gas Act, section 3).

## Exempt activities

The Minister for Energy can exempt a business or a class of businesses from gas licence requirements.<sup>15</sup>

### Class exemptions

The *Energy Coordination Exemption Order 2009* provides a number of class exemptions for activities including (but not limited to):<sup>16</sup>

- Construction of a distribution system by a developer. For example, 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.

You should review the exemption orders to determine if you are exempt from licence requirements, and if an exemption is subject to any conditions. If uncertain about the legislative requirements, you should discuss the exemption order with the Public Utilities Office, and/or seek your own legal advice.

### Applying for an individual exemptions

If you do not meet the requirements for a class exemption, you can apply to the Public Utilities Office for an individual licence exemption under the Gas Act.

If you are considering the option of applying for an individual licence exemption, you should review the exemption orders and discuss a licence exemption application with the Public Utilities Office.<sup>17</sup>

## 2.3 Water

If you intend to, or currently, provide water services you are required to hold a water services licence for the following services:

- Water supply services, which includes potable (drinking water) water supply, and/or non-potable water supply.
- Sewerage services.
- Irrigation services.

---

<sup>15</sup> The Gas Act (section 11H).

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

<sup>17</sup> [www.finance.wa.gov.au/](http://www.finance.wa.gov.au/) > [Contact Us](#).

- 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*

Under the Water Act, some activities do not require a person to hold a water licence, for example:

- Provision of water supply or sewerage services other than by reticulated conduits. For example, if you are transporting water or sewage by cart, truck or tanker.<sup>18</sup>
- Self-supply, where a person provides water to themselves within the boundaries of a single lot to a single dwelling. For example, rainwater tanks, single-lot recycled water systems, private bores, farms.
- On-supply, where an intermediary provides a water service to a third party. For example, a shopping centre that supplies water to individual tenants.<sup>19</sup>

Department of Water's website provides a list of activities that do not require a water services licence.<sup>20</sup>

### *Exempt activities*

The Minister for Water can exempt a business or a class of businesses from gas licence requirements.<sup>21</sup>

#### **Class exemptions**

Class exemption notices exempt the following activities (but not limited to):<sup>22</sup>

- Non-potable water supply services, sewerage services and drainage services where the water service works concerned are used solely to supply single premises under the control or management of the water service provider.<sup>23</sup>
- Irrigation services where the water does not contain treated or untreated wastewater (i.e. sewage).<sup>24</sup>

<sup>18</sup> 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 the *Water Services Regulations 2013* (regulation 5(2) and 5(3)), [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

<sup>19</sup> The *Water Services Regulations 2013* (regulation 5(6)), [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

<sup>20</sup> [www.water.wa.gov.au/](http://www.water.wa.gov.au/) > [Urban water](#) > [Water Services](#) > [Water services licensing and licence exemptions](#). Also refer to the *Water Services Regulations 2013 regulation 5* on State Law Publisher's website ([www.slp.wa.gov.au](http://www.slp.wa.gov.au)).

<sup>21</sup> The Water Act (section 7).

<sup>22</sup> [www.water.wa.gov.au/](http://www.water.wa.gov.au/) > [Urban water](#) > [Water Services](#) > [Water services licensing and licence exemptions](#) or [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

<sup>23</sup> Conditions include that water is not used in, or is intended to be used in, 'aquatic facilities'; or the design capacity of the sewage treatment facility does not exceed 20 kilolitres a day; and the water service is not located in a proclaimed 'public drinking water source area'.

<sup>24</sup> This exemption does not apply to irrigation services where the service is in the Gascoyne, Ord, Harvey, Waroona, Collie and Preston Valley irrigation districts proclaimed under the *Rights in Water and Irrigation Act 1914*.

- Water supply services where the water does not contain any treated or untreated wastewater (i.e. sewage); and is used only for industrial processing or manufacturing, mining or mineral processing, cleaning, thermal cooling, dust suppression or the construction, maintenance and cleaning of uninhabited buildings and infrastructure.
- Water supply, sewerage and drainage services to camps operated by mining, oil and gas companies or their contractors.
- Drainage services by local government in specified areas.

In addition, a class exemption for small local governments to supply non-potable water supply and sewerage services to less than 1,000 customers is currently limited to 14 specific shires.

You should review the exemption orders to determine if you are exempt from licence requirements, and if you are subject to any conditions of the exemptions. If uncertain about the legislative requirements, you should discuss the exemption notices with the Department of Water, and/or seek your own legal advice.

### Applying for an individual exemptions

If you do not fall under a class exemption, you can apply to the Department of Water for an individual licence exemption under the Water Act. The Department of Water's website lists all individual licence exemptions.<sup>25</sup>

If you are considering the option of applying for an individual licence exemption, you should review the exemption notices and discuss a licence exemption application with the Department of Water.<sup>26</sup>

## 3 Licence application and assessment process

This section provides an overview of the licence application process including how you apply for a licence, what is expected of you during the application process, how long the application process takes, what the licence application fees are, how the ERA makes its decision, and how you can appeal the ERA's decision.<sup>27</sup>

### 3.1 How do you lodge an application?

Prior to lodging a licence application, you should contact the Assistant Director Licensing to discuss any queries about this guideline, the application process and information requirements for a licence application.

---

<sup>25</sup> See [www.water.wa.gov.au/](http://www.water.wa.gov.au/) > [Urban water](#) > [Water Services](#) > [Water services licensing and licence exemptions](#) or [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

<sup>26</sup> See [www.water.wa.gov.au/](http://www.water.wa.gov.au/) > [Contact Us](#).

<sup>27</sup> The Electricity Act (sections 9, 10 and 19), Gas Act (section 11K, 11L and 11S), Water Act (section 10 and 11).

You should lodge your licence application, marked for the attention of the Assistant Director Licensing, at one of the following addresses:

**Email address:** records@erawa.com.au

**Postal address:** PO Box 8469, PERTH BC WA 6849

**Office address:** Level 4, Albert Facey House, 469 Wellington Street, PERTH WA 6000.

The ERA prefers to receive licence application documentation in electronic formats.

A person, authorised by the applicant to act on its behalf, must approve have approved the application.

## 3.2 How is confidential information treated?

We understand that some of the information that you will provide is confidential. If you submit confidential information, please clearly identify the information and provide reasons for the confidentiality claims.

The ERA has a very strict privacy policy regarding sensitive business and commercial information provided to the ERA as part of a licence application, and is bound by its obligations relating to confidential information in the *Public Sector Management Act 1994 (WA)* and the *Economic Regulation ERA Act 2003 (WA)*.

The *Freedom of Information Act 1992 (WA)* (**FOI Act**) also binds the ERA. Section 33 of the FOI Act requires the ERA to consult with you before disclosing commercial or business information to a third party.

The ERA will not disclose information in response to an application under the *Freedom of Information Act 1992 (WA)* (exempt matter), if the disclosure would reveal:

- Trade secrets of a person.<sup>28</sup>
- Other information that has a commercial value to a person and that disclosure could reasonably be expected to destroy or diminish that commercial value.<sup>29</sup>
- 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 to the Government or to an agency.<sup>30</sup>

Finally, under the *Freedom of Information Act 1992 (WA)*, if the ERA decides to release information containing commercial or business interests, you can request the ERA to review the decision internally, or have the decision reviewed by the Information Commissioner.<sup>31</sup>

---

<sup>28</sup> The *Freedom of Information Act 1992 (WA)* (Schedule 1, section 4(1)).

<sup>29</sup> The *Freedom of Information Act 1992 (WA)* (Schedule 1, section 4(2)).

<sup>30</sup> The *Freedom of Information Act 1992 (WA)* (Schedule 1, section 4(3)).

<sup>31</sup> The Information Commissioner's contact details are available at: [www.foi.wa.gov.au](http://www.foi.wa.gov.au)

## 3.3 Assessment process

### *Public consultation*

When the ERA receives a licence application, the ERA will issue a public notice on the ERA's website seeking public comment on the application. The notice will seek comments on the application consistent with the ERA's [Public Consultation Guidelines for Electricity, Gas and Water Licences and Electricity and Gas Standard Form Contracts](#).<sup>32</sup>

As a minimum, the ERA will publish the licence applicant's licence application summary (see section 4.1). The ERA may publish additional information contained in the application. Therefore, it is important that you clearly identify any confidential business or commercial information supplied in the application.

The consultation process will typically run for at least 15 business days.

### *Financial & technical assessment*

Typically, the ERA will engage both a technical and a financial consultant to assist with the assessment of whether the applicant has the technical and financial resources to undertake the activities to be authorised by a licence.

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

In addition to your application, the ERA and its consultants will also consider any public submissions made in response to the public consultation process.

If the ERA forms the view that further information is required to assess your application, we will request additional information from you. You must provide any additional information that we request.<sup>33</sup>

### *How long is a licence application process?*

The ERA must take all reasonable steps to consider and make a decision on whether to grant, renew or transfer 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 the application.<sup>34</sup>

To assist us make a timely decision, you are encouraged to liaise with our licensing area prior to making a formal application, and by providing all relevant information in line with the guidelines at the time of application, and respond to any further information requests in a timely manner.

---

<sup>32</sup> *Public Consultation Guidelines for Electricity, Gas and Water Licences and Electricity and Gas Standard Form Contracts* can be found on the ERA's website: [www.erawa.com.au](http://www.erawa.com.au) > Licensing > Electricity, Gas or Water > Regulatory Guidelines.

<sup>33</sup> The Electricity Act (section 10, 16, 18 and 21), Gas Act (section 11L, 11P, 11R and 11VA), Water Act (section 45).

<sup>34</sup> The Electricity Act (section 19), Gas Act (section 11S), Water Act (section 11).

## *How much does a licence application cost?*

You must pay for costs incurred by the ERA in dealing with your application for the grant, transfer, amendment, renewal, surrender or cancellation.<sup>35</sup> These costs include the costs of consultants engaged by the ERA to perform technical and/or financial assessments of a licence application, production of licence maps, public consultations and gazettal of notices.<sup>36</sup>

Before making an application, you may request from the ERA an estimate of the amount of the charge for dealing with a proposed application. The estimate does not bind the ERA.<sup>37</sup>

## *Payment of licence application costs*

The ERA will provide you with a notice specifying the amount of the charge for dealing with the application. The amount specified in the notice is payable within 30 days after the day the notice is issued. You are entitled to seek an itemised account of the costs covered by the charge.

You can pay the charge by cheque made payable to 'Economic Regulation Authority', or by electronic funds transfer. If you wish to pay by electronic transfer should contact the ERA for further details.

## **3.4 ERA decision**

The ERA will inform you of its decision to grant the licence in writing. In addition, the ERA will publish a notice of its decision on its website and in the Government Gazette. If the ERA decides to refuse to grant a licence, the ERA must give you written notice of its decision together with a statement of reasons for the decision within 14 days of the decision.

### *ERA decision criteria*

A licence application must include information to satisfy the ERA that:<sup>38</sup>

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

---

<sup>35</sup> The [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#) (regulation 4(1)).

<sup>36</sup> The [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#) (regulation 4(6)).

<sup>37</sup> The [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#) (regulation 5).

<sup>38</sup> The Electricity Act (section 23, 50 and 100), Gas Act (section 11T, 11WE and 11ZQG), Water Act (section 47 and 70)

### **Additional requirements for supply of electricity and gas to small use customers**

#### *Standard form contract*

If you apply for an electricity retail, electricity integrated regional (retail services) or a gas trading licence to supply to small use customers, you must include evidence of an approved standard form contract, or a draft standard form contract for approval by the ERA prior to grant of a licence.<sup>39</sup>

#### *Member of Energy Ombudsman Scheme*

If you apply for an electricity retail, electricity integrated regional licence (retail or distribution services), or a gas trading or distribution licence to supply small use customers, you must also supply evidence that you are, or will become, a member of the Energy Ombudsman Scheme.

### **Additional requirements for supply of water services**

#### *Water Ombudsman*

If you apply for water services, you must also supply evidence that you are, or will become, a member of the Water Ombudsman Scheme.

## **3.5 Can you appeal of ERA's decision?**

If a decision or direction of the ERA under the Electricity Act affects you adversely, you may apply to the Western Australian Electricity Review Board for a review of the decision or direction.<sup>40 41</sup>

If a decision or direction of the ERA under the Gas Act or Water Act affects you adversely, you 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.

## **4 What information is required?**

This section sets out the ERA's information requirements for a licence application.<sup>42</sup> However, you should contact the ERA's licensing team to discuss your application as all applications are individual and information requirements may vary depending on a number of factors.<sup>43</sup>

Your licence application should include:

- A summary of the application. The ERA will publish the summary as a part of the public consultation process (see Section 3.1).

<sup>39</sup> The ERA includes registers of approved standard form contracts on its website: [www.erawa.com.au Electricity>Electricity Licensing>Standard Form Contracts](http://www.erawa.com.au/Electricity/Electricity%20Licensing/Standard%20Form%20Contracts), or Gas>Gas Licensing >[Standard Form Contracts](http://www.erawa.com.au/Gas/Gas%20Licensing/Standard%20Form%20Contracts).

<sup>40</sup> The Electricity Act (section 130), Gas Act (section 11ZH), and Water Act (section 44).

<sup>41</sup> [www.edawa.com.au/electricity-review-board](http://www.edawa.com.au/electricity-review-board)

<sup>42</sup> The Electricity Act (sections 9, 10 and 19), Gas Act (section 11K, 11L and 11S), Water Act (section 10 and 11)

<sup>43</sup> Information requirements depends on a number of factors including the applicants experience, technical expertise or resources, financial resources; and public interest matters.

- An application report with supporting information addressing the information requirements set out in section 4.1, 4.2, 4.3, 4.4 and 4.5 of these guidelines.<sup>44</sup>
- The licence application checklist (see Appendix 2).

Applications should be clear, comprehensive, complete and based on current information.

If an application is incomplete, the ERA will request that you provide further information. The ERA may also reject an application, if the application contains limited or incomplete information, or is not to an acceptable quality.

## 4.1 Application summary

The ERA consults publicly on licence applications by publishing a notice and a summary of the application on the ERA's website for public comment. To assist with this process, you are required to provide a summary of the application for publication by the ERA.

It is important that the application summary is detailed enough to adequately inform the public about the content of the full application documentation. If the application summary does not include sufficient information, the ERA will liaise with you to include further information.

The application summary must contain the following information:

- 4.1.1 Identification of the applicant and a description of the applicant's structure and key organisational relationships.
- 4.1.2 A description of the proposed licensed service(s).
- 4.1.3 A description of any service infrastructure/works involved.<sup>45</sup>
- 4.1.4 A description of the supply area(s) for the proposed licensed services.<sup>46</sup>
- 4.1.5 Information about the status of other essential regulatory approvals required to commence operation under the licence.
- 4.1.6 Information about why grant of a licence would not be contrary to the public interest.<sup>47</sup>

You should structure the summary in accordance with sections 4.2 to 4.6.

---

<sup>44</sup> Typically, it is practical to provide supporting information about financial resources (including a working financial model in Excel), technical resources, and information that addresses the public interest criteria in a number of appendices.

<sup>45</sup> Please use the following measures consistently through a licence application: megawatts (MW) for electricity, terajoules (TJ) for gas and mega litres (ML) for water.

<sup>46</sup> For gas licence applications, this should identify the relevant gas supply areas: Kimberley, Pilbara, Gascoyne, Mid-West, Wheatbelt, Goldfields-Esperance, Great Southern and/or Coastal.

<sup>47</sup> Including any public consultation or stakeholder engagement processes undertaken concerning the licence project.

## 4.2 Corporate information

The application must contain the corporate information set out in this section.

### 4.2.1 A description of the licence applicant, including:

- a) The legal name and the trading name of the applicant, and the ABN or ACN.
- b) The applicant's registered office address, contact details, principal place of business (if different from the registered office), and the name and contact details of the primary contact person whom the ERA can contact about the application.
- c) The applicant's profile, including the date it was founded, its history, the number of employee and a description of the applicant's core activities.
- d) Type of company.<sup>48</sup>
- e) A list of all company directors, partners or principals.
- f) A description of company ownership such as the proportions of equity held by the individuals involved in the company.
- g) Copies of any relevant articles of association and company registration details for the applicant and any associated or controlled entities.

4.2.2 A list of any associated and/or controlled entities including, where relevant, any parent companies and a description of the degree of control exercised by any associated entity, and how the associated entity exercises that control.

4.2.3 A statutory declaration from the company directors, partners or principals of the company declaring that they have not been or would not be disqualified from managing corporations by any provision of the *Corporations Act 2001 (Cwlth)*.

4.2.4 A declaration certifying that the information provided in the application is correct (included in Appendix 1 of this guideline).

## 4.3 Financial information

The application must contain the financial information set out in this section.<sup>49</sup>

### *Current financial position*

4.3.1 The most recent audited general purpose financial report for the applicant (with accounts) that complies with the applicable Australian Accounting Standards Board Standards, including the auditor's report.<sup>50</sup> Where available, you should provide audited financial reports for the last three years, accompanied by the relevant audit reports, Director's reports, and Director's declarations.

---

<sup>48</sup> For instance, a public company, group of companies, private company, joint venture, other body corporate, partnership, unincorporated association, sole trader or other entity.

<sup>49</sup> The Electricity Act (section 19), Gas Act (section 11S), Water Act (section 11).

<sup>50</sup> Reporting entities that are not legally required to follow Australian Accounting Board Standards must at least comply with the Australian Accounting Standards. Applicants must comply with International Accounting

- 4.3.2 New companies that cannot provide financial reports should provide financial information (such as interim accounts) to demonstrate that they have sufficient financial resources to cover its' potential financial exposure.
- 4.3.3 If the applicant is a subsidiary company, audited general purpose financial reports for the parent company(s), covering the past three years.<sup>51</sup>
- 4.3.4 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)* during the three years prior to the date the application is lodged with the ERA.
- 4.3.5 A written declaration from an independent auditor, or the applicant's principal financial institution stating that:
- An insolvency official has not been appointed in respect of the business or any property of the business.
  - 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.
  - The applicant is not aware of any other factors that would impede their ability to finance the activities required by the licence.
- 4.3.6 Information about any risks to the applicant's financial position (such as any potential contingent liabilities, or any pending litigation).

### Financing

- 4.3.7 Evidence that the applicant is able to finance the assets and investment necessary to undertake the activities to which the licence relates, including:
- Details of the type of funding or financial support, including any secured funding, mezzanine debt, vendor finance, venture capital or bank guarantees.
  - A description of the relevant facility(s), including supporting evidence of credit lines and terms (to maturity), repayment schedules and any financial covenants associated with the facility(s).
  - A description and copies of any contractual arrangements<sup>52</sup> that define relationships between the licence applicant and any related entities including in relation to shared resources, guarantees, revenue flows, obligations and/or responsibilities.

### Financial projections

- 4.3.8 A description of the intended services, related business activities and the market(s) for the proposed licensed services.

---

Standards if no accounts exist that complies with Australian Accounting Board Standards or Australian Accounting Standard.

<sup>51</sup> The reports should comply with the applicable Australian Accounting Board Standards, Australian Accounting Standards or International Accounting Standards.

<sup>52</sup> For instance, alliance contracts, associate contracts, establishment contracts.

- 4.3.9 A detailed financial model in a working spreadsheet with projected revenue and expenditure for each of the proposed services for at least five years, or over the life of the project to demonstrate the financial security and feasibility for the proposed licensed activities.<sup>53</sup>
- 4.3.10 Supporting evidence for all key assumptions<sup>54</sup>, and identification of key risks, and relevant risk management strategies or measures.

### *Financial policies*

- 4.3.11 Copies of the applicant's financial policies, including accounting policies, internal and external auditing policies, risk management policies and internal control procedures.
- 4.3.12 The pricing policies, methods, procedures or principles that the applicant proposes to apply in determining its prices or charges.<sup>55</sup>

## 4.4 Technical information

The application must contain the technical information<sup>56</sup> set out in this section.

### *Assets<sup>57</sup>*

- 4.4.1 A description of the physical environment of the proposed activity including all land and areas affected by the proposed application.
- 4.4.2 A description of any infrastructure and interconnected infrastructure systems used for the delivery of licensed services. 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.<sup>58</sup>
- 4.4.3 A detailed construction schedule of any 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 temporarily or permanently affected by the activities.<sup>59</sup>
- 4.4.4 A description of any actual or proposed metering arrangements for the proposed service(s), including:
- a) Forecasts of annual maximum demand for each of the next five years.<sup>60</sup>

<sup>53</sup> Inclusion of a sensitivity analysis for key risks is preferable having regard to paragraph 4.3.10.

<sup>54</sup> For instance, for projects that rely on uptake from new developments, information should include evidence about lot sales and uptake of service.

<sup>55</sup> Explicit statutory requirement for applicants for a gas trading licence (Gas Act, section 11L(2)(b)), but also relevant for other licence applications.

<sup>56</sup> The Electricity Act (section 19), Gas Act (section 11S), Water Act (section 11).

<sup>57</sup> This section does only apply to electricity retail and gas trading licence applications to a limited extent.

<sup>58</sup> For instance, small use and large use customers, and business or residential.

<sup>59</sup> 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.

<sup>60</sup> It is important that technical and financial information is consistent.

- b) Agreements with network service providers.
- c) Agreements with metering agents.
- d) Arrangements for dealing with metering complaints and queries.

4.4.5 A detailed description of the asset management system, including:

- a) The measures to be taken 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) 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.

**Note:** You can find detailed information about the key processes that you should address in an asset management system in the ERA's *Audit Guidelines*, in particular Appendix 4.<sup>61</sup>

### **Additional requirements for gas licence applications**

4.4.6 A description of the methods or standards that the applicant proposes to apply in supplying gas.<sup>62</sup>

4.4.7 A description of the nature and extent of the construction, alteration, operation or maintenance of a distribution system that the applicant has undertaken or intends to undertake for the transportation of gas.<sup>63</sup>

### **Additional requirements for water services licence applications**

4.4.8 A description of the methods or principles that the applicant proposes to apply in the provision of the service.<sup>64</sup>

## *Customer contracts*

In some circumstances, it is a pre-condition for the grant, renewal or transfer of a licence that the licence applicant has a standard form contract approved by the ERA.<sup>65</sup> You should contact the ERA's customer protection team to discuss the requirements for standard form contracts. Currently, approved standard form contracts for existing licensees are available on the ERA's website.<sup>66</sup>

---

<sup>61</sup> *Audit Guidelines*, see [www.erawa.com.au](http://www.erawa.com.au) > Licensing > Electricity, Gas or Water > Regulatory Guidelines. This information is not required for an electricity retail licence or a gas trading licence application.

<sup>62</sup> The Gas Act (section 11L(2)(c)).

<sup>63</sup> The Gas Act (section 11L(2)(d)).

<sup>64</sup> The Water Act (section 10(2)(b)(ii)).

<sup>65</sup> The Electricity Act (section 49), Gas Act (section 11WD), Water Act (section 10(2)(b)(iv) and (v)).

<sup>66</sup> The approved contracts can be found on [www.erawa.com.au](http://www.erawa.com.au): > Electricity > Electricity Licensing > [Standard Form Contracts](#) or > Gas > Gas Licensing > [Standard Form Contracts](#)

## Electricity

4.4.9 Electricity retail licence applicants (electricity retail licence or integrated regional licence for retail services) proposing to sell electricity to small use customers are required to submit a copy of the proposed standard form contract.<sup>67</sup> The *Electricity Industry (Customer Contracts) Regulations 2005* prescribe the matters that an electricity standard form contract must address.

## Gas

4.4.10 Gas trading licence applicants are required to submit a copy proposed standard form contract.<sup>68</sup> The *Energy Coordination (Customer Contracts) Regulations 2004* prescribe the matters a gas standard form contract must address.

## Water

4.4.11 A copy of the applicant's standard terms and conditions for the provision of the service.<sup>69</sup>

4.4.12 If the applicant proposes to supply water services under a standard customer contract, a copy of proposed standard customer contract.<sup>70</sup>

4.4.13 If the applicant proposes to supply water services under non-standard terms and conditions, a copy of the proposed non-standard terms and conditions of service.<sup>71</sup>

## Customer information<sup>72</sup>

4.4.14 Evidence of compliance with relevant supply industry methods, quality standards and codes such as compliance with relevant consumer protection arrangements including:

- a) A description of how the applicant will manage customer accounts.
- b) A description of customer information 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.
- c) A description of the customer information management systems used by the applicant, including any billing systems.

<sup>67</sup> Electricity Act (section 49). An ERA approved standard form contract is a precondition for grant of an electricity retail licence or electricity integrated regional licence for retail services. A small use customer is a customer who consumes not more than 160MWh of electricity per year (Electricity Act, section 78).

<sup>68</sup> The Gas Act (section 11WD). An ERA approved standard form contract is a precondition for grant a gas trading licence. A small use customer is a customer whose consumption of gas is less than 1TJ per year (Gas Act, section 3).

<sup>69</sup> The Water Act (Section 10(2)(b)(iv)).

<sup>70</sup> The Water Act (Section 10(2)(b)(v)).

<sup>71</sup> The submission of a non-standard contract is not a condition for the grant of a water licence. However, the ERA must approve any non-standard contract used for the supply of water services.

<sup>72</sup> The Electricity Act (section 99), Gas Act (section 11ZQF), Water Act (section 70).

*Additional requirements for gas trading licence applicants*

- d) If the applicant proposes to sell gas to small use customers, a copy of the applicant's proposed customer safety awareness program which complies with the *Gas Standards (Gas Supply and System Safety) Regulations 2000*<sup>73</sup>. Alternatively, an applicant may provide a copy of its proposed customer safety awareness program within three months of licence grant.<sup>74</sup>

*Additional requirements for water services licence applicants*

- e) If the applicant proposes to provide water services to residential customers, a copy of the applicant's proposed financial hardship policy.<sup>75</sup>

4.4.15 Evidence of a commitment to remain or become a member of an approved Energy and Water Ombudsman Scheme and adhere to any decisions of an Energy and Water Ombudsman Scheme, where the applicant applies for:

- a) an electricity retail, distribution or integrated regional (for retail or distribution services) licence who intend to supply electricity to small use customers<sup>76</sup>;
- b) a gas trading or distribution licence<sup>77</sup>; or
- c) a water services operating licence.<sup>78</sup>

**Note:** Licence applicants, who are required to become members of the Energy and Water Ombudsman Scheme, should discuss their membership application with the Energy and Water Ombudsman in conjunction with discussing a licence application with the ERA.

The Electricity, Gas and Water Acts provide that the ERA may only grant the above licences, if the licensee is or will become a member of the Energy and Water Ombudsman Scheme (see section 3.4).<sup>79 80</sup>

If a service provider is supplying customers without a licence due to a licence exemption, it is the service provider's responsibility to ensure that it is a member prior to expiry of the exemption.<sup>81</sup>

*Relevant experience*

4.4.16 A description of the applicant's prior experience and/or appropriate training related to the nature of the proposed activity, including a list of the key personnel 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.

<sup>73</sup> Department of Commerce administer these regulations.

<sup>74</sup> The *Compendium of Gas Customer Licence Obligations* (clause 10.5A(1)) requires a licensee to lodge with the ERA a gas customer safety awareness program within three months of the licensee being subject to the Compendium.

<sup>75</sup> *Water Services Code of Conduct (Customer Service Standards) 2013* (regulation 26).

<sup>76</sup> The Electricity Act (section 99).

<sup>77</sup> The Gas Act (section 11ZQF).

<sup>78</sup> The Water Act (section 70).

<sup>79</sup> The Electricity Act (section 100), Gas Act (section 11ZQG), and Water Act (section 70).

<sup>80</sup> Potential licensees should note that the Ombudsman's constitution (section 8.1) currently requires that "[an] Applicant shall be Eligible to become a Member only if the Applicant is the holder of one or more Licences". See [www.ombudsman.wa.gov.au/ewowa/index.htm](http://www.ombudsman.wa.gov.au/ewowa/index.htm) > Publications > [Charter and Constitution](#)

<sup>81</sup> Alternatively, it may be possible to have a transitional arrangement in place with the relevant policy department prior to the expiry of the licence exemption.

4.4.17 Where the applicant relies on contractors, please provide evidence of agreements to provide services, please provide:

- a) Applicant's policy on the use of sub-contractors.
- b) Evidence of agreements to provide services.
- c) A description of the other company's experience and technical capacity including a list of key personnel and their qualifications.

### *Other equivalent licences*

4.4.18 A description of any licences or approvals held by the applicant, its' associated or controlled entities under the law of another State or Territory, to supply electricity, gas or water, including a signed statutory declaration detailing any:

- a) Interstate licence(s).
- b) 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 regulator imposed a penalty or an enforcement order.
  - ii) Details of any current or ongoing investigation of alleged breaches of those licences.
  - iii) A written authorisation for the ERA to seek information about the applicant or associated or controlled entities and its interstate licences from relevant regulatory bodies in other jurisdictions.

### *Other regulatory approvals*

4.4.19 A description and written evidence of the status of applications for environmental, planning and health approvals, permits or licences. It is preferable that you progress these as far as possible prior to applying for a licence.

## 4.5 Public interest information

The ERA must not grant a licence unless the ERA is satisfied that it would not be contrary to the public interest.<sup>82</sup> When making this assessment, the ERA must take into account the following:

### **Electricity and gas**

- Environmental considerations.
- Social welfare and equity considerations, including community service obligations.
- Economic and regional development factors, including employment and investment growth.
- Interests of customers generally or of a class of customers.

---

<sup>82</sup> The Electricity Act (section 8(5) and 9), Gas Act (section 11H(3) and 11K), Water Act (section 11 and 46).

- Interests of any licensee, or applicant for a licence, in respect of the area or areas to which the order, if made, would apply.
- Competition in electricity and gas industry markets.
- Policy objectives of the Government in relation to the supply of electricity and gas.

### Water

- Environmental considerations, including the value of ecologically sustainable development.
- Public health considerations relating to the provision of reliable water services.

For all licence applications, the ERA may consider any other factors it considers relevant.

The application must contain information set out below.

4.5.1 Information about relevant factors to support that grant of licence would not be contrary to the public interest.

## 4.6 Licence Supply and Operating Areas

All licences must specify a supply or operating area.<sup>83</sup> Therefore, the application must include the information set out below:

- 4.6.1 A description of the proposed supply or operating area detailed enough to develop a licence supply or operating area. Any map(s) should:
- Identify the location of any infrastructure and cadastral boundaries<sup>84</sup>. The map(s) should include any areas where infrastructure extends over other private or public land. In the case of retail or trading licences, maps should identify where supply will take place.
  - Unless otherwise agreed with the ERA, be submitted electronically both in pdf format and in one of the following digital formats: dgn, dxf, dwg, or shapefile.

You can find examples of maps on the ERA's website<sup>85</sup> and applicants are encouraged to discuss mapping requirements with the ERA's licensing staff prior to applying for a licence.

## 5 Licence amendments, renewals, or transfers

If you already hold a license, you may apply to the ERA to amend, renew, transfer, and surrender or cancel the licence. In addition, the ERA may initiate a licence amendment.

---

<sup>83</sup> The Electricity Act (section 5), Gas Act (section 11E), and Water Act (section 9).

<sup>84</sup> A map showing with information from the land register such as the boundaries of land parcels.

<sup>85</sup> The ERA maintains a registry of current licences including maps on its website, [www.erawa.com.au](http://www.erawa.com.au):

- Electricity > Electricity Licensing > [Licence Holders](#)
- Gas > Gas Licensing > [Licence Holders](#)
- Water > Water Licensing > [Licence Holders](#)

## 5.1 How to apply for a licence amendment?

A licensee or the ERA may initiate a licence amendment.<sup>86</sup> In either circumstance, the ERA may amend the licence if it is satisfied that it would not be contrary to the public interest. Therefore, the application process entails undertaking public consultation in accordance with section 3.3 and 4.5 of this guideline.

### *Licence amended upon request by the licensee*

The process for licence amendments follows that of the application process for grant of licences (section 3).

The information required for a licence amendment will vary depending on the nature of the amendment. For instance, if your proposed amendment significantly seeks to change the nature and scope of an existing licence, the application may be very similar in nature to that of a new licence application (see section 3).

On the other hand, for minor amendments, a short, succinct application may be sufficient (and no public consultation may be required in accordance with the ERA Consultation Guidelines). Therefore, it is important that applicants contact the ERA's licensing area to discuss the amendment application prior to applying.

### *Licence amended on the initiative of the ERA*

The ERA will consult with both the licensee and the public on licence amendments it initiates. Public consultation will occur in accordance with the ERA Consultation Guidelines. In addition, licences contain provisions that set out how the ERA may amend the licence, including any notification requirements. Subject to the terms of the licence, the ERA will provide the licensees with an opportunity to comment on any proposal to amend its licence.

## 5.2 How to apply for a licence renewal?

Each licence specifies the term of the licence:<sup>87</sup>

- The Electricity Act allows a retail licence for up to 15 years before the licence has to be renewed, while other electricity licences first have to be renewed after a maximum period of 30 years.
- The Gas Act allows a trading licence for up to ten years before the licence has to be renewed, while distribution licences first have to be renewed after a maximum period 21 years.
- The Water Act allows a water services operating licence for up to 25 years before the licence has to be renewed.

As a licensee, you must apply for and be granted renewal of your licence prior to expiry of your licence.<sup>88</sup>

---

<sup>86</sup> The Electricity Act (section 21 and 22), Gas Act (section 11VA and 11W), and Water Act (section 17 and 18).

<sup>87</sup> The Electricity Act (section 15), Gas Act (section 11O), Water Act (section 14).

<sup>88</sup> The Electricity Act (section 16 and 19), Gas Act (section 11P and 11S), Water Act (section 13).

The process for licence renewals follows that of the application process for grant of licences (section 3). As renewal of a licence is subject to the same test as the grant of a licence, an application for renewal should address the same criteria as an application for a new licence (see section 3).

### 5.3 How to apply for a licence transfer?

The process for licence transfers<sup>89</sup> follows that of the application process for grant of a licence (section 3).

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

The new entity receiving the licence will be subject to the same test as a new licence applicant. Therefore, an application for transfer must address the same criteria (section 3) and information requirements (section 4) as an application for a new licence.

## 6 How to apply for a licence surrender or cancellation?

The process for licence surrender or cancellation<sup>90</sup> follows that of the application process for grant of licences (section 3).

You may apply to the ERA for surrender or cancellation of your licence at any time by written notice, which must set out:

- The date you wish to surrender or cancel the licence.
- Why it would not be contrary to the public interest to surrender or cancel the licence (see section 4.5).

The ERA will consult publicly on the licensee's notice of the proposed surrender or cancellation.

If you intend to apply for a licence surrender or cancellation, you should discuss the matter with the ERA as early as practicable to facilitate that the surrender or cancellation is not contrary to the public interest.

A surrender or cancellation of a licence by a licensee will only take effect on the later of the day that:

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

---

<sup>89</sup> The Electricity Act (sections 18 and 19), Gas Act (section 11R and 11S), Water Act (section 15).

<sup>90</sup> The Electricity Act (Schedule 1, clause 1(l)), Gas Act (Schedule 1A, clause 1(g)), and Water Act (Section 18). Note, the Electricity and Gas Act use term 'surrender' when a licensee applies to handback a licence, whereas the Water Act use the term 'cancellation'.

## 7 Obligations of licensees

### 7.1 Licence conditions

Upon grant of a licence, you are subject to the conditions of the licence.<sup>91</sup> The Electricity, Gas and Water Acts impose a number of licence conditions directly, and provide powers for the ERA to impose additional licence conditions.<sup>92</sup>

While you may be subject to licence conditions specific to your circumstances, you will typically be subject to the standard licence conditions the ERA impose on each of the following licence categories. You are encouraged to review relevant licences on the ERA's website to understand the standard terms and conditions that are likely to apply in your case.<sup>93</sup>

To assist you administrating your licence, the ERA provides you with significant support on its website,<sup>94</sup> particularly a number of guidelines.<sup>95</sup>

### 7.2 Licence fees

The [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#) prescribes fees applicable to licence applications and administration of licences. In addition, it is a condition of all licences that the licensee must pay the fees.

In addition, you will incur costs associated with the recurring performance audits and asset management reviews. For information about this, please contact our Monitoring team.

#### *Annual licence fees*

Licensees must pay ongoing (annual) licence fees. The annual licence fee is payable within one month of the grant of a licence and annually thereafter.

---

<sup>91</sup> The Electricity Act (section 11, 12, 13, 14, 15, 54, 58, 65, 76, 82, 101 and Schedule 1), Gas Act (section 11M, 11O, 11WG, 11Y, 11Z, 11ZA, 11ZAJ, 11ZPP, 11ZQH and Schedule 1A), and Water Act (section 12, 14, 21, 22, 23, 24, 25, 26, 27, 29 and 30).

<sup>92</sup> Electricity Act (section 11, 12, 13, 14, 54, 58, 65, 76, 82, 101 and Schedule 1), Gas Act (section 11M, 11WG, 11Y, 11Z, 11ZA, 11ZAJ, 11ZPP, 11ZQH and Schedule 1A), and Water Act (section 12, 21, 22, 23, 24, 25, 26, 27, 29 and 30).

<sup>93</sup> The ERA maintains a registry of current licences on its website, [www.erawa.com.au](http://www.erawa.com.au):

- Electricity > Electricity Licensing > [Licence Holders](#)
- Gas > Gas Licensing > [Licence Holders](#)
- Water > Water Licensing > [Licence Holders](#)

<sup>94</sup> See [www.erawa.com.au](http://www.erawa.com.au):

- Electricity > [Electricity Licensing](#)
- Gas > [Gas Licensing](#)
- Water > [Water Licensing](#)

<sup>95</sup> The ERA maintains a registry of each of the licensed industries on its website, [www.erawa.com.au](http://www.erawa.com.au):

- Electricity > Electricity Licensing > [Regulatory Guidelines](#)
- Gas > Gas Licensing > [Regulatory Guidelines](#)
- Water > Water Licensing > [Regulatory Guidelines](#)

**Annual licence fees<sup>96</sup>**

Licence Type	Licence Fee
Electricity Distribution	\$2,732
Electricity Generation	\$2,406
Electricity Retail	\$3,416
Electricity Transmission	\$2,406
Gas Distribution	\$2,778
Gas Trading	\$3,105
Water Services	\$2,885

**Electricity integrated regional licence fees<sup>97</sup>**

Integrated regional licence fees consist of the aggregate of the fee for each activity (generation, transmission, distribution and/or retail) authorised under the licence.

*Standing charge*

You must also pay an ongoing (standing) charge to recover the costs incurred by the ERA in the performance of its licensing functions. The standing charge recovers the costs associated with licensing activities not attributable to an individual licence application. These costs relate to the general administration of the licensing regime and include, but not limited to, the following:

- Overheads associated with the ERA's corporate and management activities that are associated with administering the licensing regime.
- Annual reporting on the performance of licensees.
- Review and amendment of codes of conduct for electricity, gas and water customers.
- Reviews of licence templates.

The ERA invoices for standing charges quarterly and the charge is payable within 30 days after receiving notice.

In order for the ERA to calculate the standing charges, licensees are required to report annually on the number of units relevant to its licence (as outlined in the table below). The number of units reported by a licensee will determine the proportion of the standing charge within that class of licence that the licensee is liable to pay.

<sup>96</sup> The [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#) (regulation 6(2)).

<sup>97</sup> The [Economic Regulation Authority \(Licensing Funding\) Regulations 2014](#) (regulation 3(2)).

**Licence reference data**

Class of licence	Units
Electricity Distribution Licence	kilometres of distribution line
Electricity Generation Licence	megawatts of generation capacity
Electricity Retail Licence	customers
Electricity Transmission Licence	kilometres of transmission line
Gas Distribution Licence	kilometres of gas distribution pipeline
Gas Trading Licence	customers
Water Services Licence	customers

For further information on the calculation of the standing charge, refer to regulation 7 of the [Economic Regulation Authority ERA \(Licensing Funding\) Regulations 2014](#).

**7.3 Enforcement**

If the ERA believes that you have contravened the terms and conditions of its licence, it may send a notice to you requiring the contravention to be rectified. If the ERA is not satisfied that you have reasonably complied this notice, the ERA may do one or more of the following:<sup>98</sup>

**Electricity and Gas**

- Serve the licensee a letter of reprimand.
- Order the licensee to pay a penalty of up to \$100,000.
- Direct the licensee to rectify the contravention.

**Water**

- Order the licensee to pay a penalty of up to \$150,000.
- Remedy the failure.
- Amend the water licence.

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

Before the ERA can impose a penalty or cause action to rectify a contravention, we must notify you as the licensee and give you 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 ERA does not need to provide you notice and you are not entitled to make a submission on the matter.

<sup>98</sup> The Electricity Act (section 32, 33, and 34), Gas Act (Sections 11ZB, 11ZC, 11ZD, 11ZOR, 11ZOS and 11ZOT), and Water Act (Sections 31, 32 and 33).

## 7.4 Cancellation by the Governor

The Governor may cancel your licence. If the Governor cancels your licence, you may seek judicial review of that decision in the Supreme Court of WA.<sup>99</sup>

### *Electricity & Gas*

The Governor may cancel an electricity or gas licence if satisfied that the 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);<sup>100</sup>
- has failed to pay a licence fee;
- is an externally administered corporation within the meaning of the *Corporations Act 2001 (Cwlth)*; or
- has, within a period of 24 months, been convicted of more than three offences for which the prescribed punishment is a fine of \$10,000 or more or imprisonment for 12 months or more.

### *Water*

The Governor may cancel an electricity or gas licence if the Minister is satisfied that the 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);<sup>101</sup>
- is an externally administered corporation within the meaning of the *Corporations Act 2001 (Cwlth)*, or is otherwise in the process of being wound-up, is a bankrupt or is a person whose affairs are under insolvency laws;
- 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; or
- has ceased to exist.

---

<sup>99</sup> The Electricity Act (section 35), Gas Act (section 11ZE), and Water Act (section 34).

<sup>100</sup> The relevant Minister has to have given the licensee notice of the failure and the licensee has had opportunity to remedy that failure.

<sup>101</sup> The relevant Minister has to have given the licensee notice of the failure and the licensee has had opportunity to remedy that failure.



## Appendix 1: Certification

All applicants must complete this certification.

### 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 ERA 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 ERA 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	Document title	Page number
4.1.1	Identity of applicant and a description of its structure and key organisational relationships	<input type="checkbox"/>		
4.1.2	A description of the service(s) or service model intended	<input type="checkbox"/>		
4.1.3	A description of the service infrastructure/works involved	<input type="checkbox"/>		
4.1.4	A description of the supply areas	<input type="checkbox"/>		
4.1.5	Information on the status of other essential regulatory approvals required	<input type="checkbox"/>		
4.1.6	Not contrary to public interest information	<input type="checkbox"/>		

### Corporate information required (refer to section 4.2)

Guidelines reference	Information required	Information provided	Document title	Page number
4.2.1(a)	Identity of applicant including ABN or ACN	<input type="checkbox"/>		
4.2.1(b)	Address and contact details for the applicant including a primary contact person	<input type="checkbox"/>		
4.2.1(c)	Entity profile including a description of core activities	<input type="checkbox"/>		
4.2.1(d)	Description of company type	<input type="checkbox"/>		

4.2.1(e)	A list of all company directors or principals of the applicant	<input type="checkbox"/>		
4.2.1(f)	Description of company ownership	<input type="checkbox"/>		
4.2.1(g)	Articles of association and registration details for the applicant and associated or controlled entities	<input type="checkbox"/>		
4.2.2	A list of any associated and/or controlled entities, and a description of control exercised	<input type="checkbox"/>		
4.2.3	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"/>		
4.2.4	A declaration certifying that the information provided is correct (included in Appendix 1 of this guideline)	<input type="checkbox"/>		

### Financial information required (refer to section 4.3)

Guidelines reference	Information required	Information provided	Document title	Page number
<b>Current financial position</b>				
4.3.1	Most recent audited general purpose financial reports	<input type="checkbox"/>		
4.3.2	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"/>		
4.3.3	Where the applicant is a subsidiary company, financial reports for the parent company	<input type="checkbox"/>		
4.3.4	Copies of any information submitted to ASIC under chapter 2M of the <i>Corporations Act 2001 (Cwlth)</i> over the past three years	<input type="checkbox"/>		
4.3.5	Declaration from independent auditor or principal financial institution	<input type="checkbox"/>		
4.3.6	Information about any risks to the applicant's financial position	<input type="checkbox"/>		

<b>Financing</b>				
4.3.7	Evidence that the applicant is able to finance the assets and investment necessary to undertake the licensed activities	<input type="checkbox"/>		
<b>Financial projections</b>				
4.3.8	Intended services, related business activities and markets	<input type="checkbox"/>		
4.3.9	Projected revenue and expenditure figures for at least five years	<input type="checkbox"/>		
4.3.10	Information about assumptions, risks and risk management strategies	<input type="checkbox"/>		
<b>Financial policies</b>				
4.3.11	Financial policies	<input type="checkbox"/>		
4.3.12	Pricing policies, methods and procedures	<input type="checkbox"/>		

**Technical information required (refer to section 4.4)**

Guidelines reference	Information required	Information provided	Document title	Page number
<b>Assets</b>				
4.4.1	Description of the physical environment of the proposed activity and its immediate vicinity	<input type="checkbox"/>		
4.4.2	Description of the supply infrastructure and interconnected infrastructure systems	<input type="checkbox"/>		
4.4.3	Construction schedule (where applicable)	<input type="checkbox"/>		
4.4.4	Details of the actual and proposed metering arrangements (where applicable)	<input type="checkbox"/>		
4.4.5	Detailed description of asset management system (where applicable)	<input type="checkbox"/>		

Additional requirements for gas licence applications				
4.4.6	Methods or standards proposed to apply in the supply of gas (gas licence applications only)	<input type="checkbox"/>		
4.4.7	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"/>		
Additional requirements for water services licence applications				
4.4.8	Description of the methods or principles proposed to apply in the provision of water services (water licence applications only)	<input type="checkbox"/>		
<b>Customer contracts</b>				
Electricity				
4.4.9	Proposed standard form contract for electricity (where applicable)	<input type="checkbox"/>		
Gas				
4.4.10	Proposed standard form contract for gas (where applicable)	<input type="checkbox"/>		
Water				
4.4.11	Proposed standard terms and conditions for the provision of water services (where applicable)	<input type="checkbox"/>		
4.4.12	Proposed standard customer contract for water services (where applicable)	<input type="checkbox"/>		
4.4.13	Proposed non-standard terms and conditions for the provision of water services (where applicable)	<input type="checkbox"/>		
<b>Customer information</b>				
4.4.14	Evidence of compliance with relevant supply industry methods, quality, standards and codes including compliance with relevant consumer protection arrangements (where applicable)	<input type="checkbox"/>		

4.4.14(a)	A description of how customer accounts will be managed.	<input type="checkbox"/>		
4.4.14(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"/>		
4.4.14(c)	Information on the customer information management systems used by the applicant, including any billing systems.	<input type="checkbox"/>		
<b>Additional requirements for gas trading licence applicants</b>				
4.1.4(d)	The customer safety awareness program			
<b>Additional requirements for water services licence applicants</b>				
4.4.14(e)	Proposed financial hardship policy for residential customers	<input type="checkbox"/>		
<b>All applicants (where relevant)</b>				
4.4.15	Commitment to become or remain a member of an approved ombudsman scheme and to be bound by its decisions (where applicable)	<input type="checkbox"/>		
<b>Relevant experience</b>				
4.4.16	Experience, personnel and key personnel of applicant	<input type="checkbox"/>		
4.4.17	Information about sub-contractors (policy, contracts, experience and key personnel).	<input type="checkbox"/>		
<b>Other equivalent licences</b>				
4.4.18	A statutory declaration giving particulars of the applicant's interstate licence(s) including any regulatory action taken by a regulator in another jurisdiction.	<input type="checkbox"/>		
<b>Other regulatory approvals</b>				
4.4.19	Description and evidence of the status of applications for other necessary approvals, permits or licences.	<input type="checkbox"/>		

**Public interest information required (refer to section 4.5)**

Guidelines reference	Information required	Information provided	Document title	Page number
4.5.1	Statement and evidence about any information to support that the grant of licence would not be contrary to the public interest	<input type="checkbox"/>		

**Licence, Supply and Operating Areas information required (refer to section 4.6)**

Guideline reference	Information required	Information provided	Document title	Page number
4.6.1	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"/>		