

Accel Energy Retail Pty Limited

Retail Licence application – February 2022





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Introduction

AGL Energy Limited (**AGL Energy**) is a leading integrated essential service provider, with a proud 184-year history of innovation and a passionate belief in progress – human and technological. We deliver 4.5 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. We operate Australia's largest electricity generation portfolio, with an operated generation capacity of 11,208 MW, which accounts for approximately 20 per cent of the total generation capacity within Australia's National Electricity Market.

Following an initial indication to the market in March 2021 of a proposed structural separation, in June 2021 AGL Energy announced its intention to undertake a demerger to create two leading energy businesses with separate listings on the Australian Securities Exchange.

Under the demerger proposal, AGL Energy will become Accel Energy Limited (**Accel Energy**), an electricity generation business focused on the accelerating energy transition. Accel Energy will demerge a new entity, AGL Australia Limited (**AGL Australia**), a multi-product energy-led retailing and flexible energy trading, storage, and supply business. AGL Australia will retain the AGL brand.

AGL Energy intends to hold a scheme and general meeting to enable shareholders to vote on the proposal, and to complete the demerger in the fourth quarter of the financial year ending 30 June 2022 (FY22) subject to final AGL Energy Board, Australian Tax Office and relevant regulatory, court, and shareholder approvals.

The proposed demerger is intended to provide greater clarity of purpose for both AGL Australia and Accel Energy, positioning each company to better manage opportunities and challenges presented by the accelerating energy transition, and to deliver on their different but important roles in Australia's energy transition.

Should the demerger not proceed for any reason, AGL Energy would engage with the ESC to discuss future requirements in respect of this licence.

Accel Energy Retail's application

Accel Energy Retail Pty Limited (**Accel Energy Retail**), is a wholly owned subsidiary of AGL Energy, and post-demerger, will be a wholly owned subsidiary of Accel Energy. While Accel Energy's focus will primarily be managing its large generation fleet and the development of energy hubs, it intends to retain a role in retailing to large commercial and industrial electricity customers through Accel Energy Retail.

AGL Energy holds three electricity retail and three gas retail licences, through which it retails to small, medium, and large customers in Victoria. These existing licensed entities will form part of the AGL Australia portfolio.

We did not consider it appropriate to allocate one of these existing licensed entities to Accel Energy, as this would require a large-scale small customer transfer. For this reason, we are seeking a new medium and large customer licence for Accel Energy Retail. The retail licence is a critical element in facilitating the demerger and ensuring that Accel Energy can operate successfully from day one.

AGL Energy's existing retail activity

[REDACTED]



All other customers of AGL Energy will become customers of the newly created AGL Australia. From a corporate perspective, all AGL Energy subsidiaries that hold retail licences or authorisations have been allocated to AGL Australia as part of the intended demerger.

From a practical perspective, AGL Energy's customers will experience no change arising from the demerger. This means no change to their authorised retailer, current contracts, or the support services provided. AGL Energy's regulatory compliance framework for retailing will continue to be fully implemented by AGL Australia.

1. General information – applicant

1.1. Name of applicant

APPLICANT RESPONSE

Accel Energy Retail Pty Limited

1.2. Legal identity of applicant

APPLICANT RESPONSE

ABN: 47 122 144 709

ACN: 122 144 709

Type of Entity: Australian proprietary company, limited by shares

1.3. Contact details and address of applicant

APPLICANT RESPONSE

Business address:	Postal address:	Contact person for the application:
Level 24, 200 George Street	Locked Bag 14120	Liz Gharghori
Sydney NSW 2000	Melbourne VIC 8001	Wholesale Markets Regulatory Manager
		L.Gharghori@agl.com.au
		03 8633 6723 / 0498 444 045

1.4. Diagram of corporate and organisational structure

- a) *corporate or other structure (including any parent and related companies within the meaning of the Corporations Act 2001), and*

APPLICANT RESPONSE

Attachment reference: Attachment 1.4(a) – corporate structure

- b) *organisational chart (including composition of the board, management, and other key personnel responsible for the key functions).*

APPLICANT RESPONSE

The organisation charts have been provided on the basis that Accel Energy Retail is currently a wholly owned subsidiary of AGL Energy.

We have also provided organisation charts to the extent these have been determined for Accel Energy post-demerger.

**Attachment reference: Attachment 1.4(b) – organisation chart and personnel experience
(Confidential)**

1.5. The Licence

Date from which licence is sought:

APPLICANT RESPONSE

Accel Energy Retail is seeking for the licence to take effect from 31 May 2022 [REDACTED]
[REDACTED]

Nature and scope of operations:

APPLICANT RESPONSE

Accel Energy Retail intends to retail to commercial and industrial customers in the medium and large customer classification. The customers will be located in both metropolitan and regional areas.

2. Technical capacity

2.1. Experience and knowledge of the industry

Please provide details of the systems and processes that the applicant will use to:

a) *manage wholesale exposure;*

APPLICANT RESPONSE

Attachment Reference: Attachment 2.1 – Experience and knowledge of the industry (Confidential)

Attachment 3.2 – Business Plan (Confidential)

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

b) *market to customers;*

APPLICANT RESPONSE

Attachment Reference: Attachment 2.1 – Experience and knowledge of the industry (Confidential)

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

c) *bill customers;*

APPLICANT RESPONSE

Attachment Reference: Attachment 2.1 – Experience and knowledge of the industry (Confidential)

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

d) *manage connection and disconnection processes;*

APPLICANT RESPONSE

Attachment Reference: Attachment 2.1 – Experience and knowledge of the industry (Confidential)

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

e) *manage customer complaints;*

APPLICANT RESPONSE

Attachment Reference: Attachment 2.1(e) – Accel Retail Complaints Management Policy

Attachment 2.1 – Experience and knowledge of the industry (Confidential)

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

f) *manage dispute resolution*

APPLICANT RESPONSE

Attachment Reference: **Attachment 2.1(e) – Accel Retail Complaints Management Policy**

Attachment 2.1 – Experience and knowledge of the industry (Confidential)

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

g) *comply with regulatory reporting requirements;*

APPLICANT RESPONSE

Attachment Reference: **Attachment 2.1 – Experience and knowledge of the industry (Confidential)**

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

For each of the above matters, please provide details of the relevant systems and processes that the applicant will use, in providing those details please include:

- a) *the experience and qualifications of any relevant key employees who will manage those systems and processes;*
- b) *If the applicant will engage contractors or agents to assist with the licensed activities, provide the following information*
 - (i) *the name of the contractor or agent*
 - (ii) *the scope of activities undertaken by the contractor or agent*
 - (iii) *details of any formal agreements for the provision of services,*
 - (iv) *details about the experience of the contractor or agent in relation to the activities that it will be undertaking, including any accreditations, and*
 - (v) *details of the processes in place to ensure the contractor or agent complies with the licensee's regulatory obligations.*

APPLICANT RESPONSE

Attachment Reference: **Attachment 2.1 – Experience and knowledge of the industry (Confidential)**

Attachment 1.4(b) – organisation chart and personnel experience (Confidential)

Attachment 2.1(c) – [REDACTED] Service Agreement (Confidential)

Attachment 2.1(cA) – [REDACTED] proposal (Confidential)

2.2. Risk management

Provide confirmation and reasonable evidence that the applicant has identified the risks associated with energy retail operations. And that the applicant has established, utilise and rely upon risk management systems and processes which are adequate, accurate and current to address those risks. A copy of the applicant's risk management strategy and confirmation of any accreditation (e.g. AS/NZS ISO 31000:2009) should be provided.

APPLICANT RESPONSE

Accel Energy Retail's risk management strategy is governed by AGL Energy's whole of organisation Risk Management Policy and Risk Management and Assessment Standard, which set out the organisational framework, expected practices, and governance structures in place for risk management. The Policy and Standard align with ISO 31000 Risk Management – Principles & Guidelines and the ASX Corporate Governance Council Principles and Recommendations.

Attachment reference: **Attachment 2.2(a) – AGL Risk Management Policy (Confidential)**
Attachment 2.2(b) – AGL Risk Management and Assessment Standard (Confidential)

AGL Energy has prepared a report titled, 'Accelerating Our Transition', in line with the Task Force on Climate-related Financial Disclosures (TCFD) framework. The report sets out four scenarios AGL Energy has modelled of climate-related risks, where this includes assessments of the potential operational, financial, and reputational risks.

The report shows the anticipated impact of the scenarios in a current state, whole of AGL Energy perspective, but also from a post-demergers perspective. This report usefully sets out the risks that Accel Energy Limited faces, as the anticipated post-demergers parent company of Accel Energy Retail.

Attachment reference: **Attachment 2.2(c) – Accelerating our Transition FY21 TCFD report**

Attachment reference: **Attachment 3.2 – Business Plan (Confidential)**

Accel Energy Retail has developed a separate risk management strategy that brings together all the operational and financial risks of retailing.

Attachment reference: **Attachment 2.2(d) – Accel Retail Risk Management Strategy (Confidential)**

2.3. Registration with the Australian Energy Market Operator

Indicate if the applicant has or intend to register with the Australian Energy Market Operator. If the applicant is already registered or intending to register, provide details of the registration or inquiries made. If the applicant is not intending to register with the Australian Energy Market Operator, please provide a reason.

APPLICANT RESPONSE

Accel Energy Retail is registered with AEMO as a generator and market customer in respect of the Dalrymple North Battery Energy Storage System (**Dalrymple Battery**), an asset located in South Australia.

As an existing market customer, Accel Energy Retail is seeking an additional Participant ID from AEMO for the retailing activities it will undertake in respect of its C&I customers.

2.4. Licences held in other Australian jurisdictions

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

APPLICANT RESPONSE

Accel Energy Retail has an electricity generation licence issued by the Essential Services Commission of South Australia in respect of the Dalrymple Battery, a 30MW facility.

Attachment reference: **Attachment 2.4 – Accel Energy Retail Pty Limited Licence**

2.5. Previous unsuccessful licence applications in other Australian jurisdictions

Identify and provide details on whether the applicant has applied for an electricity or gas licence in another Australian jurisdiction and have not been issued with a licence.

APPLICANT RESPONSE

Accel Energy Retail has not had any previous unsuccessful licence applications.

2.6. Licences held by associates of the applicant

If an associate (within the meaning of the Corporations Act 2001) holds an electricity or gas licence in Victoria or in other Australian jurisdictions, please provide details.

APPLICANT RESPONSE

Attachment reference: **Attachment 2.6 – licences held by related companies.**

2.7. Compliance management

Provide evidence of how the compliance systems the applicant has (or are intending to have) in place will ensure compliance with all of the relevant regulatory obligations required by the retail licence. This evidence may include a copy of the applicant's compliance management strategy and confirmation of any accreditation (e.g., AS ISO 19600:2015).

APPLICANT RESPONSE

Accel Energy Retail's compliance strategy is governed by AGL Energy's whole of organisation Compliance Management Policy and Standard, which set out the organisational framework, expectations, and governance structures in place for compliance management. The Policy and Standard align with ISO 19600:2015 – Compliance Management Systems.

Attachment reference: **Attachment 2.7(a) – AGL Compliance Management Policy (Confidential)**
Attachment 2.7(b) – AGL Compliance Management Standard (Confidential)

Regarding compliance with retailer specific compliance obligations, Accel Energy Retail has developed a Retail Compliance Plan.

Attachment reference: **Attachment 2.7(c) – Accel Retail Compliance Plan (Confidential)**

2.8. Additional information

Provide any additional information the applicant considers relevant to the commission's assessment of the applicant's technical capacity.

APPLICANT RESPONSE

[REDACTED]

[REDACTED]

Attachment reference: Attachment 2.8 – Electricity Sale Agreement (Confidential).

[REDACTED]

3. Financial viability

3.1. Financial resources

The applicant must provide a statement that will be made available to the public during the consultation period that the applicant has the financial resources to commence and sustainably perform the relevant licensable activities, and meet the service standards for small customers (if applicable).

Please provide a statement to confirm that:

- a) *the applicant is financially viable and has the financial resources to commence and sustainably operate the retail business, and*
- b) *the applicant will be a registered market participant with the Australian Energy Market Operator for its retail business and subject to prudential requirements under the National Electricity Rules (if applicable).*

If the applicant is intending to retail energy to large customers only and/or have authorisation to retail energy with the Australian Energy Regulator, the applicant does not need to complete the following section (please skip to part 4 of the application form). There will be a licence condition that restricts the selling of energy to large customers.

The commission may request information on financial viability of a licensee in its absolute discretion including, but not limited, to circumstances where a licensee varies its licence to retail energy to small customers, or no longer has authorisation with the Australian Energy Regulator.

APPLICANT RESPONSE

The Applicant:

- is financially viable and has the financial resources to commence and sustainably operate the retail business, and
- will be a registered market participant with the Australian Energy Market Operator for its retail business and subject to prudential requirements under the National Electricity Rules.

3.2. Supporting documentation

The applicant must provide documentation to demonstrate the applicant has access to sufficient financial resources to sustain a viable business in the electricity and/or gas industry. Please provide the attachment reference for each document listed below and mark commercial-in-confidence where required:

- a) *audited financial statements for the previous financial year or the past 12 months*

APPLICANT RESPONSE

Attachment reference: Attachment 3.2(a) – FY21 audited financial statements

As at the date of this application, Accel Energy Retail has entered into a deed of cross guarantee with its parent entity, AGL Energy Limited, and has otherwise satisfied the conditions required to enjoy relief from Part 2M.3 of the *Corporations Act 2001* (Cth). As such, Accel Energy Retail's financial performance is reflected in consolidated financial statements prepared by AGL Energy Limited (its parent entity). A copy of these financial statements for FY21 is attached at **Attachment 3.2(a)**.

b) *annual report*

APPLICANT RESPONSE

Attachment reference: Attachment 3.2(b) – AGL Energy Limited FY21 annual report

As at the date of this application, Accel Energy Retail is a wholly owned subsidiary of AGL Energy Limited. A copy of the annual report of AGL Energy Limited FY21 is attached at **Attachment 3.2(b)**.

c) *guarantees in place*

APPLICANT RESPONSE



Attachment reference: N/A

d) *shareholder register*

APPLICANT RESPONSE

Attachment reference: Attachment 3.2(d) – shareholder register (Confidential)

e) *statements from bank/financiers, shareholders, the board or parent company*

APPLICANT RESPONSE

N/A

Please provide a statutory declaration by an officer of the company, disclosing:

- *any material change in the financial position of the licence applicant that has occurred since the end of last financial year for which audited accounts are provided*
- *any likely changes in the structure, operation or financing of the company or the licensed activity that could materially affect its financial viability.*

If the applicant is a new business (start-up) please provide a five-year business plan. The business plan must demonstrate that the applicant meets the financial viability criterion. For example, it should provide information on (as applicable):

- *current valuations of the assets that will be used in undertaking the licensed activity*
- *all sources of revenues from the licensed activity*
- *all costs involved in undertaking the licensed activity, including:*
 - *the cost of meeting any prudential requirements*
 - *the cost of capital/debt*
 - *the cost to acquire and serve customers*
 - *the cost of meeting licence obligations*
 - *a financial model that supports the business plan.*

Where revenues and/or costs are not fixed by contract, the business plan must include an explanation of the basis of the figures used, and include appropriate sensitivity analyses for such variables.



APPLICANT RESPONSE

Attachment reference: **Attachment 3.2 – Business Plan (Confidential)**
Attachment 3.2 – Statutory Declaration

4. Suitability of applicant to hold a licence

4.1. Fit and proper person

In deciding whether to grant or refuse a licence application, the commission will consider whether the applicant is a fit and proper person to hold a licence in Victoria.

The concept of a 'fit and proper person' is established by common law and takes its meaning from its context, from the activities in which the person is or will be engaged, and the ends to be served by those activities.

In considering whether an applicant is a fit and proper person, we will have regard to the applicant's honesty, integrity and reputation. These are relevant factors as they can inform an assessment of the likelihood of future conduct.

We will also consider the conduct of directors, office holders or any person with significant managerial duties or influence. We will also consider the conduct of related bodies corporate or entities that can exert control over the applicant.

- a) *Have any directors of the applicant, directors of any entity that can exert control over the applicant, or any person with significant managerial responsibility or influence on the applicant:*
- (i) been declared bankrupt,*
 - (ii) had their affairs placed under administration,*
 - (iii) been disqualified from managing a company,*
 - (iv) been subject to debt judgements, or*
 - (v) insolvency proceedings (including any administration, liquidation or receivership in connection with the affairs of a company)?*

APPLICANT RESPONSE

As at the date of this application, the Directors of the Applicant are John Fitzgerald, Damien Nicks and Markus Brokhof (each, an "**Applicant Director**" and together, the "**Applicant Directors**").

As at the date of this application, the Directors of AGL Energy Limited (being the ultimate holding company of the applicant) are Peter Botten, Graham Hunt, Jacqueline Hey, Diane Smith-Gander, Patricia McKenzie and Mark Bloom (each, an "**AGLE Director**" and together, the "**AGLE Directors**").

None of the matters described in paragraph (a) are applicable in relation to any of the Applicant Directors or the AGLE Directors.

If yes, provide details:

APPLICANT RESPONSE

N/A

- b) *Has the applicant, any directors of the applicant, directors of any entity that can exert control over the applicant or any person with significant managerial responsibility or influence on the applicant been prosecuted for any offences or had any enforcement action taken under any state, territory,*

Commonwealth or foreign legislation (including, but limited to, the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), or the Australian Securities and Investments Commission Act 2001 (Cth))?

APPLICANT RESPONSE

None of the matters described in paragraph (b) are applicable to any of the Applicant Directors or the AGL Directors.

If yes, provide details:

APPLICANT RESPONSE

N/A

- c) *Has the applicant, any directors of the applicant, any related body corporate, or any person with significant managerial responsibility or influence on the applicant been involved in any material breaches of obligations regulated by the commission or any other regulator?*

APPLICANT RESPONSE

Yes

If yes, provide details:

APPLICANT RESPONSE

The applicant has prepared 10 years of disclosures for AGL Energy Limited and all subsidiaries. The disclosures also cover the individuals who currently have, or post-demergers, will have significant managerial responsibility for the applicant.

Attachment reference: Attachment 4.1(c) – Applicant disclosures

- d) *Has the applicant, any related body corporate, or any person with significant managerial responsibility or influence on the applicant, been refused a licence or authorisation, or had restricted, suspended or revoked any such licence?*

APPLICANT RESPONSE

No

If yes, provide details:

APPLICANT RESPONSE

N/A

- e) *Please provide any other information the applicant considers is relevant to the commission's fit and proper person assessment.*

APPLICANT RESPONSE

N/A

4.2. Additional information

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

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

APPLICANT RESPONSE

The applicant is an Australian resident.

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

APPLICANT RESPONSE

The applicant is not under external administration (as defined in the Corporations Act 2001) or under a similar form of administration under any laws applicable to it in any jurisdiction.

- c) *Is the applicant immune from suit in respect of the obligations under the Electricity Industry Act 2000?*

APPLICANT RESPONSE

The applicant is not immune from suit in respect of the obligations under the Electricity Industry Act 2000.

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

APPLICANT RESPONSE

The applicant is capable of being sued in its own name in a court of Australia.

4.3. Commission objectives

In deciding whether to grant or refuse a licence application, the commission must consider its objectives under the Electricity Industry Act and/or Gas Industry Act and the Essential Services Commission Act.

Our objective under the Essential Services Commission Act, when performing our functions and exercising our powers, is to promote the long-term interests of Victorian consumers. In seeking to achieve this objective, we must have regard to the price, quality, and reliability of essential services and the matters set out in section 8A to the extent they are relevant.

Please provide any information the applicant considers relevant to the commission’s consideration of its objectives outlined in:

- *Section 8 of the Essential Services Commission Act (also see s 8A of the Essential Services Commission Act),*
- *Section 10 of the Electricity Industry Act, and/or*
- *Section 18 of the Gas Industry Act.*

APPLICANT RESPONSE

Accel Energy Retail is intended to form part of Accel Energy once AGL Energy completes its intended demerger in mid-2022. Accel Energy's operating strategies, and climate commitment and targets, are set out in the attached Business Plan.

Attachment reference: **Attachment 3.2 – Business Plan (Confidential)**

5. Statutory Declaration

That all information provided in this application for the issue of an electricity retail licence is true and correct must be verified by a statutory declaration. This statutory declaration must be made by the applicant (where the applicant is an individual) or a director of the applicant (where the applicant is a corporation) and must be made in accordance with the requirements of the Oaths and Affirmations Act 2018(Vic).

The statutory declaration must address the following:

- 1. identification of the declarant's position and/or role with the applicant*
- 2. that the declarant believes the information provided in the application to be true and correct*
- 3. that the declarant believes the applicant has the financial resources to commence and operate the activities the subject of the licence. Further, that the applicant intends to be/is registered as a market participant with the Australian Energy Market Operator in relation to the activity of selling electricity (if applicable).*

Attachment reference: Attachment 5 – Statutory Declaration