



ELECTRICITY WHOLESALE LICENCE

**Enel Energy Australia Pty Ltd
(ACN 632 774 255)**

**Varied on
30 November 2023**

C/23/23255

ELECTRICITY WHOLESALE LICENCE

This Licence is issued pursuant to section 19 of the *Electricity Industry Act 2000* (Vic) and is subject to the terms set out in this Licence.

Date

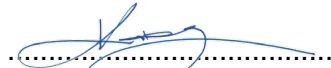
This Licence was first issued on **4 March 2020** (and last varied on **30 November 2023**).

Licensee

This Licence is issued to:

Enel Energy Australia Pty Ltd (ACN 632 774 255) (the Licensee)

THE COMMON SEAL of the)
ESSENTIAL SERVICES COMMISSION)
was affixed pursuant to the authority)
of the Commission on 6 December 2023)



Kate Symons

CHAIRPERSON

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Part A – Definitions and Interpretation

1. Definitions

1.1. Unless the contrary intention appears, a term in bold type has the meaning shown opposite it:

Act	the <i>Electricity Industry Act 2000</i> (Vic)
AEMO	Australian Energy Market Operator Limited (ACN 072 010 327)
Authorised Generation Facilities	Cohuna solar farm, located approximately 8km south of Cohuna in northern Victoria Girgarre solar farm, located approximately 10km north-west of Stanhope in northern Victoria
Business Day	a day other than a Saturday, Sunday or a public holiday in Victoria
Change of Control	occurs in relation to the Licensee if: <ul style="list-style-type: none"> (a) an Entity that Controls the Licensee ceases to Control the Licensee; or (b) an Entity that does not Control the Licensee starts to Control the Licensee <p>provided that no change of control will be deemed to have occurred where the Ultimate Holding Company that Controls the Licensee remains the same or the Change in Control results from the acquisition or cancellation of, or dealing in, securities which are traded on a recognised financial market</p>
Code of Practice	means a Code of Practice made under Part 6 of the ESC Act or relevant legislation
Commission	the Essential Services Commission established under the ESC Act
Control	has the same meaning given in section 50AA of the <i>Corporations Act 2001</i> (Cth)
ESC Act	the <i>Essential Services Commission Act 2001</i> (Vic)
Licensee	Enel Energy Australia Pty Ltd (ACN 632 774 255)
Minister	the person who is, from time to time, the Minister for the purposes of the Act
National Electricity Law	the National Electricity (Victoria) Law in force in Victoria under the <i>National Electricity (Victoria) Act 2005</i> (Vic)
National Electricity Rules	the rules of that name made as in force from time to time under the National Electricity Law
Objectives	the objectives specified in section 10 of the Act and section 8 of the ESC Act

Review	a systemic and independent process for obtaining evidence and evaluating it objectively to determine the extent to which particular criteria are fulfilled, this includes, but is not limited to a regulatory audit undertaken in accordance with relevant Guidelines issued by the Commission
Wholesale Electricity Market	means the market for wholesale trading in electricity operated by AEMO under the National Electricity Rules

1.2. In this Licence, unless the context otherwise requires:

- i. headings and footnotes are each for convenience only and do not affect the interpretation of this Licence;
- ii. words importing the singular include the plural and vice versa;
- iii. words importing a gender include any gender;
- iv. an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- v. a reference to a condition, clause, or part is to a condition, clause, or part of this Licence;
- vi. a reference to any statute including the Act and regulation, proclamation, Order in Council, ordinance, or by-law includes all statutes, regulations, proclamations, Orders in Council, ordinances, or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, Orders in Council, ordinances, by-laws and determinations issued under that statute;
- vii. a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- viii. a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- ix. other parts of speech and grammatical forms of a word or phrase defined in this Licence have a corresponding meaning;
- x. a period of time:
 1. which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
 2. which commences on a given day or the day of an act or event is to be calculated inclusive of that day;

- xi. an event which is required under this Licence to occur on or by a stipulated day which is not a Business Day may occur on or by the next Business Day.

2. Notices

2.1. A notice under this Licence is only effective if it is in writing, and dealt with as follows:

- i. if given by the Licensee to the Commission – addressed to the Chief Executive Officer of the Commission at the physical or email address specified below or as otherwise notified by the Commission:

Essential Services Commission
Level 8, 570 Bourke Street
Melbourne, VIC, 3000

licences@esc.vic.gov.au

- ii. if given by the Commission to the Licensee – given by the Chief Executive Officer of the Commission and addressed to (and marked for attention of) the Chief Executive Officer of the Licensee at the physical address specified below or as otherwise notified by the Licensee:

Enel Energy Australia Pty Ltd (ACN 632 774 255)
Suite 23.07
100 Barangaroo Avenue
Barangaroo, NSW, 2000

compliance.au@enel.com

A notice is to be:

- iii. signed by or on behalf of the person giving the notice and delivered by hand; or
- iv. signed by or on behalf of the person giving the notice and sent by pre-paid post; or
- v. transmitted electronically by or on behalf of the person giving the notice by electronic mail.

2.2. A notice is deemed to be effected:

- i. if delivered by hand – upon delivery to the relevant address;
- ii. if sent by post – in accordance with section 160(1) of the *Evidence Act 2008 (Vic)*;
- iii. if transmitted electronically – in accordance with the *Electronic Transactions (Victoria) Act 2000 (Vic)*.

2.3. A notice received after 5.00 pm, or on a day that is not a Business Day, is deemed to be effected on the next Business Day.

Part B - Licence

3. Grant of the Licence

- 3.1. This Licence was first granted on 4 March 2020 and has been varied on the dates set out in Schedule 1 of this Licence.
- 3.2. Subject to clause 3.3, in the exercise of its powers under section 19 of the Act, the Commission grants the Licensee a Licence to sell electricity on the terms and conditions set out in this Licence.
- 3.3. This Licence is subject to any prohibition set out in any Order issued and in force under the Act.

Part C - Conditions of the Licence

4. Status of the requirements in this Part

- 4.1. A failure on the part of the Licensee to meet any of the requirements set out in this Part C is a breach of a civil penalty requirement for the purposes of the ESC Act.

5. Payment of fees

- 5.1. The Licensee must pay a licence fee as determined by the Minister in accordance with the provisions of section 22 of the Act.

6. Ongoing technical capacity

- 6.1. The Licensee must at all times maintain:
 - a. such technical capacity as is:
 - (1) required to meet its obligations under this Licence, any applicable Code of Practice and the Act; and
 - (2) reasonably required to undertake the activities authorised by this Licence; and
- 6.2. In this clause 6, 'activities authorised by this Licence' include any activities undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensee for the purpose of enabling the Licensee to undertake the activities authorised by this Licence.

7. Ongoing financial capacity

- 7.1. The Licensee must at all times remain financially viable to undertake the activities authorised by this Licence.

8. Compliance with regulatory instruments

- 8.1. The Licensee must comply with any procedure or guideline issued by the Commission from time to time that is expressed as being one with which the Licensee must comply, to the extent it is applicable to activities undertaken by the Licensee pursuant to this Licence.
- 8.2. The Licensee must have in place a system for monitoring its compliance with this Licence, any applicable Code of Practice and the Act.
- 8.3. The Licensee must comply with the National Electricity Law and the National Electricity Rules.

9. Separate accounts

- 9.1. If the Licensee holds more than one category of Licence under Part 2 of the Act, the Licensee must prepare separate accounts for each part of its business in respect of which it has been granted a separate Licence.

10. Provision of information

- 10.1. The Licensee must maintain comprehensive records regarding any activities undertaken pursuant to this Licence for a period of at least 7 years.
- 10.2. The Licensee must as soon as reasonably practicable provide AEMO with such information relating to any activities undertaken pursuant to this Licence as AEMO may properly request in connection with the performance of its functions or exercise of its powers in the manner and form specified by AEMO.
- 10.3. The Licensee must, as soon as reasonably practicable, provide the Commission with information on its ongoing technical capacity or financial viability to undertake the activities authorised by this Licence, as the Commission may properly request in connection with the performance of its functions or the exercise of its powers under the Act, and in the manner and form specified by the Commission.

11. Change of control

- 11.1. The Licensee must give the Commission a notice in writing if any event occurs, any decision by the Licensee is made, or any other circumstances exists that will effect a Change of Control of the Licensee.
- 11.2. The notice required under clause 11.1 must set out particulars of the relevant event, decision or circumstance and be given to the Commission as soon as practicable and in any case not later than 3 Business Days after the Licensee becomes aware of the event or circumstance or makes the decision.

12. Revocation

- 12.1. The Commission may revoke this Licence:
- i. at any time at the request of, or with the consent of, the Licensee; or
 - ii. in accordance with the Act.

- 12.2. Where the Commission proposes to revoke this Licence, the Commission will issue a notice to the Licensee, specifying:
- i. the basis upon which the Commission proposes to revoke this Licence; and
 - ii. the date upon which the revocation is proposed to take effect, such date to be:
 1. where the Commission's opinion it is appropriate that this Licence be revoked in a shorter time frame having regard to its Objectives and the events or circumstances that gave rise to the notice being issued, no less than 5 Business Days after the date upon which the notice is issued; and
 2. in all other cases, no less than 20 Business Days after the date upon which the notice is issued.
 - iii. that the Licensee has the opportunity to make representations on the matter and the time and date and manner in which those representations must be made.
- 12.3. The Commission must consider any submissions received by the Licensee prior to making a decision to revoke the Licence.
- 12.4. Where the Commission decides to revoke this Licence, the Commission will issue a notice to the Licensee specifying:
- i. the basis upon which the Commission is revoking the Licence; and
 - ii. the date upon which the revocation takes effect, being no earlier than the date specified in the notice issued pursuant to clause 12.2,
- and this Licence will be revoked on the date specified in the notice.

13. Variation

- 13.1. The Commission may vary this Licence in accordance with section 29 of the Act.

14. Transfer

- 14.1. This Licence may be transferred in accordance with section 31 of the Act.

15. Review

- 15.1. Upon direction by the Commission, the Licensee must appoint an independent reviewer to conduct Reviews of:
- i. the Licensee's compliance with its obligations under this Licence, a Code of Practice, or the Act; and
 - ii. the reliability and quality of information reported by the Licensee to the Commission and the consistency of that information with the Commission's specifications; and

- iii. any other matter relating to the activities conducted pursuant to this Licence, as directed by the Commission.
- 15.2. Following a direction pursuant to clause 14.1, the Licensee must obtain the Commission’s approval of the independent reviewer and the scope, timing and methodology of the Review.
- 15.3. The Licensee must ensure that the Commission is promptly provided with a copy of any reports produced by the independent reviewer pursuant to this clause.
- 15.4. The Licensee must comply, and must require the independent reviewer to comply, with any Guidelines issued by the Commission dealing with Reviews.
- 16. Limited authorisation to sell electricity under this Licence**
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- 16.1. This Licence authorises the sale of electricity generated at the Authorised Generation Facilities only, and only when sold through the Wholesale Electricity Market.

Schedule 1 – Variations to the Licence

Date	Variation
30 November 2023	This Licence was varied: <ul style="list-style-type: none"> • at clause 1.1 to add Girgarre Solar Farm as an Authorised Generation Facility; • at various clauses within Part A, Part B, and Part C to update the wording of definitions and conditions for consistency with more recently issued electricity wholesale licences.