



# **1<sup>ST</sup> ENERGY**

## **APPLICATION FOR ELECTRICITY RETAILER AUTHORISATION JUNE 2015**

**1<sup>ST</sup> ENERGY PTY LTD  
ACN 604 999 706**



This electricity retailer authorisation application is submitted for the attention of:

**General Manager  
Retail Markets Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001**

An electronic copy of this application has been emailed to [AERauthorisations@aer.gov.au](mailto:AERauthorisations@aer.gov.au).

## TABLE OF CONTENTS

<b>1. GENERAL PARTICULARS</b>	<b>6</b>
1.1. Legal Name	6
1.2. Trading Name	6
1.3. ACN/ABN of Business Entity	6
1.4. Address Details	7
1.5. Nominated Contact Person	7
1.6. Form of Energy for which Authorisation is Required	7
1.7. Intended Date of Commence of Retail Activities	7
1.8. Nature and scope of proposed operations	7
1.9. Jurisdictions in which the applicant intends to apply	7
1.10. Type of customers the applicant intends to supply	7
<b>2. ORGANISATION AND TECHNIAL CAPACITY</b>	<b>8</b>
2.1. Previous Retail Experience	8
2.2. Additional Retail Experience	8
2.3. Retail experience of shareholders	8
2.4. Organisational Structure	9
2.5. Employees	9
2.6. Summary of Key Staff	9

2.7. Third Party Service Provision	11
2.8. Business Plan and Financials	11
2.9. Training Programs and Policies	11
2.10. Quality Assurance	11
2.11. Compliance	11
2.12. Complaints Handling	12
2.13. Risk Management Policy	12
2.14. Risk and Compliance Approval	12
2.15. Insurances	12
2.16. Energy Industry Ombudsman Schemes	12
2.17. Interaction with relevant market participants	12
2.18. Previous ROLR Events	13
2.19. Additional Information	13
<b>3. FINANCIAL RESOURCES</b>	<b>14</b>
3.1. Financial Reports	14
3.2. Ownership Structure and Equity	14
3.3. Written declaration from accountants	14
3.4. Going Concern	14
3.5. Credit Rating	14
<b>4. SUITABILITY</b>	<b>15</b>

4.1. Directors and Officers Statement	15
4.2. Other Offences	15
4.3. Police Check	15
4.4. Names and addresses of key officers	15
4.5. Probity and Competence	15
<b>5. ATTACHMENTS</b>	<b>16</b>

## **1<sup>st</sup> Energy**

# **APPLICATION FOR AN ELECTRICITY RETAILER AUTHORISATION**

## **INTRODUCTION**

1<sup>st</sup> Energy Pty Ltd is a privately owned company, proposing to establish an electricity retail business in the eastern states of Australia. The following details will make up the application for an electricity retailer authorisation to sell electricity to residential and small businesses under market contracts. This application has been put together to set out how 1<sup>st</sup> Energy meets the following criteria:

- Organisational and technical capacity
- Financial capacity
- Suitability

This application has been put together in accordance with the AER's Retailer Authorisation Guideline, as well as the energy Retail Law and Rules and other relevant obligations such as Australian Consumer Law, Competition and Consumer Act and the Privacy Act.

The granting of an electricity retail authorisation to 1<sup>st</sup> Energy is consistent with the long term objectives of the Energy Law to "promote efficient investment in and efficient operation and use of energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply of energy."

## **1 GENERAL PARTICULARS**

### **1.1**

Legal Name: 1<sup>st</sup> Energy Pty Ltd

### **1.2**

Trading Name: 1<sup>st</sup> Energy trades under its own name

### **1.3**

ACN/ABN of Business Entity

ACN: 604 999 706

ABN: 71 604 999 706

A copy of the constitution of 1<sup>st</sup> Energy is submitted as Attachment 3.

A copy of the shareholders' agreement is submitted as Attachment 4.

A copy of the certificate of company registration is submitted as Attachment 5.

**1.4 Address Details**

Registered Address: 8 Bronte Court Hampton VIC 3188

Address of business activities: Level 23, HWT Tower, 40 City Road Melbourne 3006

**1.5 Nominated Contact Person**

Mr Liam Foden

Executive Director

liam.foden@1stenergy.com.au

**1.6 Form of energy for which authorisation is required**

This application is for an electricity retailer authorisation.

**1.7 Intended date of commence of retail activities**

1<sup>st</sup> Energy intends to commence retail activities from 1 September 2015.

**1.8 Nature and scope of proposed operations**

1<sup>st</sup> Energy has long term aspirations to be a competitive and successful retailer in the key contestable states of Australia. 1<sup>st</sup> Energy will sell electricity to residential consumers and small and medium businesses, which includes customers who are classified as small. 1<sup>st</sup> Energy will progressively look to enter the large customer segments over time.

**1.9 Jurisdictions in which the applicant intends to apply**

1<sup>st</sup> Energy is intending on retailing electricity to all eastern Australian states (NSW/QLD/SA).

1<sup>st</sup> Energy intends to submit a retail licence application in Victoria to the Essential Services Commission. A copy of the business plan is submitted as Attachment 1.

**1.10 Type of customers the applicant intends to supply**

1<sup>st</sup> Energy intends to sell electricity to residential and small and medium businesses, those classified as small in the market.

## **2 ORGANISATION AND TECHNICAL CAPACITY**

### **2.1 Previous Retail Experience**

1<sup>st</sup> Energy is a new company, but key staff and shareholders have significant Australian energy market experience.

#### **a) Date and location of previous operations**

1<sup>st</sup> Energy is a new company, primarily established to provide retail electricity services to customers. Shareholders have previously established Victoria Electricity/NSW Electricity/Queensland Electricity and South Australia Electricity (now all trading as Lumo Energy).

#### **b) Form of energy sold**

Electricity and gas

#### **c) Scale of operations**

Shareholders achieved over 100,000 customers, with a mix of residential, small and large business. Lumo Energy today has in excess of 500,000 customers.

1<sup>st</sup> Energy will enter into electricity agreements with small and medium businesses and residential customers in the eastern states of Australia. 1<sup>st</sup> Energy will offer targeted products and services to these customer segments, and will grow in a sustainable way that delivers on customer expectations and compliance.

#### **d) Retail activities**

Retail activities including customer service, billing, marketing, compliance and financial control for Lumo Energy were managed in-house. Sales and other functions utilised a mix of internal and external agents.

Retail activities for 1<sup>st</sup> Energy including customer service, billing, marketing and financial control will be managed in-house. Sales and other functions may utilise 1st Energy approved external parties.

#### **e) Relevance of previous experience**

Key staff at 1<sup>st</sup> Energy have direct experience in the Australian energy market, and will utilise this to deliver on expectations to customers and industry bodies. Further information on this is set out below in 2.6.

### **2.2 Additional Retail Experience**

Key 1<sup>st</sup> Energy staff and directors have experience in overseas energy retailing, and in telecommunications.

### **2.3 Retail experience of shareholders**

1st Energy's shareholders and executive directors have previous experience of running an energy retail business in Australia, as well as in the USA and New Zealand. Details of this are set out in 2.6 below.



## **2.4 Organisational Structure**

Attachment 8 displays the 1<sup>st</sup> Energy organisational structure.

1<sup>st</sup> Energy will be conducting recruitment for finance, customer service, sales support, billing and transfers roles.

External consultants have and will be engaged to provide services for on-going risk management, wholesale trading and regulatory and compliance functions.

## **2.5 Employees**

Managing Director  
Executive Director, Retail  
Financial Controller  
Wholesale and Risk Management  
Regulatory and Compliance Management  
Customer Service and Operations  
Sales Administration and Quality Assurance

Additional resources will be recruited when the business reaches an appropriate size.

Attachment 9 provides a tabulation of the resourcing requirements for the initial 2 years of business operations.

## **2.6 Summary of Key Staff and Directors**

### **Liam Foden – Managing Director**

Mr Liam Foden has over 15 years experience in the Australian energy industry, with senior management roles at EnergyAustralia, Lumo Energy as well as Powerdirect. Liam is experienced in retail pricing, customer billing, wholesale trading and settlements, network bill validation and customer transfers and administration. As Head of Retail Pricing, Liam was responsible for mass market pricing, revenue and gross margin for EnergyAustralia's 2.6m mass market customers. Prior to that Liam was General Manager Business Performance at Lumo Energy, which covered pricing, billing and business intelligence for Lumo Energy's 400,000+ customers.

Liam also successfully established Lumo Telecommunications in 2008, a telco providing fixed line and broadband internet services to Lumo Energy's existing energy customer base. Over 12,000 customers were serviced by Lumo Telecommunications, which was subsequently sold to Bendigo Bank Telco. Customers are still serviced today by Bendigo Bank Telco.

### **Adam Landry – Executive Director, Retail**

Mr Adam Landry has close to 15 years experience in the Energy sector both in Australia and the UK. His first foray into energy was at Economy Power, a start-up SME based Retailer in the UK, where he was responsible for managing in house sales and retention activity. Economy Power sold its 40,000 strong SME customer base to European giant E.ON in 2005. Adam then took up an opportunity with Invensys to successfully set up their competitive

metering and data aggregation vertical concentrating on blue chip organisations (customers included RBS, Tesco, The Co-Op and ASDA).

Following that he was lured back to E.ON initially to run their North West direct sales business before moving into a more operational end to end role in New Connections with responsibility for sales through Major Building companies, meter installation, billing of both customer and builder and credit management.

In 2012 Adam negotiated a return to Australia to take up a position with EnergyAustralia as National Sales Manager responsible for >250,000 annual sales, both Residential and SME, through external vendors. In that time he rebuilt EnergyAustralia's sales strategy with particular emphasis on delivering volume whilst working under a robust compliance framework and incentivising partners to deliver quality high value sales.

### **Donald Cheesman – Non-Executive Director**

Mr Donald Cheesman is currently a director of Kiwi Energy, a US based energy retailer. Kiwi Energy has over 100,000 customers primarily in New York. Donald was a founder and Managing Director of Victoria Electricity (now trading as Lumo Energy) from 2002-2007. Lumo Energy now has over 500,000 customers. Donald was also a founder and Managing Director of Energy Online, a start-up independent electricity retailer in New Zealand. Energy Online was formed in 1999 and now has 20,000 customers and annualised revenues exceeding \$25M. Prior to founding Energy Online, Donald Cheesman had 12 years experience in the electricity industry, which included senior management roles at Power New Zealand where he was responsible for the non-domestic customer base of 25,000 and Power New Zealand's wholesale energy purchases of approximately \$170 million per annum.

### **Steve Eskrigge – Non-Executive director**

Mr Steve Eskrigge is currently a director of Kiwi Energy, a US based energy retailer. Kiwi Energy has over 100,000 customers primarily in New York. Steve was a founder and Executive Director of Victoria Electricity (now trading as Lumo Energy) from 2002-2008. Steve Eskrigge was also a founder of Energy Online and was the company's General Manager Marketing and Operations. Prior to founding Energy Online, Steve Eskrigge had 10 years experience in the energy industry, with roles at Enerco NZ, Integral Energy Australia and Power New Zealand. Preceding his involvement with Energy Online, Steve was Sales and Marketing Manager for Power New Zealand.

### **Aneta Graham – Regulatory and Compliance Consultant**

Aneta Graham has over 11 years' experience in the Australian energy industry and was previously with Lumo Energy, (a founding member since its inception in 2004), as the General Manager of Regulatory Affairs and Compliance and a member of the Senior Executive Team.

Aneta has extensive industry knowledge of Regulatory, Compliance and Corporate Affairs matters and a track record of building and driving customer-focused teams with a shared commitment to compliance as a key driver of organisational strategies. Aneta has a thorough

understanding of key business requirements to establish a new entrant retailer and has a comprehensive understanding of national and state legislation and energy regulations.

Aneta has held key industry Board positions on both Energy Assured Ltd (Deputy Chair) and Energy Retailers Association Australia (Alternate Director) and has authored multiple business policies in the areas of Customer Service, Compliance, Complaints Management and Hardship.

## **2.7 Third Party Service Provision**

While 1<sup>st</sup> Energy will manage many of its functions in-house, there will be third party contracts in place for sales activities, and also for the retail CRM Orion. Please see Attachment 10 which outlines the functionality of Agility software and services. Please also see Attachment 11 to view the agreement that has been executed between 1<sup>st</sup> Energy and Agility.

## **2.8 Business Plan and Financials**

1<sup>st</sup> Energy's business plan is enclosed as Attachment 1. 1<sup>st</sup> Energy intends to enter each jurisdiction in a controlled way to test systems and processes.

1<sup>st</sup> Energy's financial model is submitted as Attachment 2.

## **2.9 Training Programs and Policies**

1<sup>st</sup> Energy has created a training program in line with requirements set out of the relevant codes and laws. This training covers regulatory compliance, explicit informed consent, complaints handling, credit and hardship procedures and privacy. The training will be mandatory for staff with customer interactions, and records of training will kept with individual staff records. 1<sup>st</sup> Energy's training documents are attached as Attachment 12.

## **2.10 Quality Assurance**

1<sup>st</sup> Energy will apply procedures, processes and resources to ensure high levels of quality assurance.

## **2.11 Compliance**

1<sup>st</sup> Energy has utilised its industry experience to develop relevant compliance controls and reporting required to operate a retail electricity business. This includes compliance with applicable codes and guidelines, as well as obligations and requirements in the Australian Consumer Law, Consumer and Competition Act, and Retail Law. Attachments 13-15 (inclusive) outline the processes and systems put in place to meet such requirements. 1<sup>st</sup> Energy will be using the Orion customer management system which is utilised by a number of energy retailers and has appropriate functionality to meet regulatory and compliance obligations.

### **2.12 Complaints Handling**

Any complaints raised will be taken seriously and acted on swiftly, with internal resolution a primary objective. 1<sup>st</sup> Energy's customer management system is designed to capture customer interactions and can be reported on as required. 1<sup>st</sup> Energy has had initial discussions with jurisdictional ombudsman schemes, and will work proactively to resolve customer complaints within industry timelines.

1<sup>st</sup> Energy's internal complaint and dispute resolution policy is submitted as Attachment 16.

### **2.13 Risk Management Policies**

1<sup>st</sup> Energy has developed wholesale and risk management policies, which include wholesale energy trading risk management and key operational risk management, such as disaster recovery processes. The Executive Management team have significant experience with managing wholesale and business risk. The Risk Policy documents are submitted as Attachments 17-18 (inclusive).

### **2.14 Risk and Compliance Approval**

1<sup>st</sup> Energy has engaged the services of Aneta Graham, an experienced external compliance specialist to create a Regulatory and Compliance framework, and she will be utilised to conduct routine internal audits on compliance processes.

### **2.15 Insurances**

1<sup>st</sup> Energy has in place appropriate business insurance including public liability and professional indemnity insurance.

### **2.16 Energy Industry Ombudsman Schemes**

1<sup>st</sup> Energy is currently not a member of any ombudsman scheme, but will participate in the relevant schemes where required under its Retailer Authorisation once granted. 1<sup>st</sup> Energy has had initial contact with the relevant ombudsman schemes in preparation for retail activities.

### **2.17 Interaction with relevant market participants**

1<sup>st</sup> Energy has had initial discussions with AEMO and distribution businesses in preparation for retail activities. 1<sup>st</sup> Energy will take appropriate steps to ensure compliance with market participants in relevant jurisdictions that 1<sup>st</sup> Energy conducts business in.

An application to AEMO will be submitted soon after the submission of the Retailer Authorisation application. All arrangements and requirements with AEMO will be finalised immediately upon the granting of a Retailer Authorisation.

### **2.18 Previous ROLR Events**

1<sup>st</sup> Energy as a new company has not been involved in ROLR events. 1<sup>st</sup> Energy's shareholders and executive directors have also had no involvement with any previous ROLR event.

### **2.19 Additional Information – Customer Charter and Privacy Policy**

1<sup>st</sup> Energy has prepared a customer charter that contains information relating to our role as a retailer and that of the customer, including agreement terms, complaint and dispute resolution, privacy, special needs and distributor contacts. The customer charter is submitted as Attachment 19.

1<sup>st</sup> Energy's privacy policy is submitted as Attachment 20.

### **3 FINANCIAL RESOURCES**

#### **3.1 Financial Reports**

1<sup>st</sup> Energy has attached the relevant financial documents which are marked as commercial-in-confidence which includes:

- a) Financial model and assumptions – Attachment 2
- b) Certificate of company registration – Attachment 5
- c) Shareholder register – Attachment 6
- d) Bank statements – Attachment 7

#### **3.2 Ownership Structure and Equity**

Ownership structure and equity arrangements are set out in Attachment 4.

#### **3.3 Written declaration from accountants**

A written declaration from 1<sup>st</sup> Energy's accountant is enclosed as Attachment 21 and confirms:

- a) No insolvency or bankruptcy
- b) No winding up
- c) No other impeding factors

#### **3.4 Going Concern**

1<sup>st</sup> Energy's business plan and financial model detail funding arrangements that are appropriate for carrying on a retail energy business.

#### **3.5 Credit Rating**

1<sup>st</sup> Energy is a newly formed company and does not have a credit rating.

## **4 SUITABILITY**

### **4.1 Directors and Officers Statement**

1<sup>st</sup> Energy confirms that:

- None of its directors have been disqualified from the management of corporations.
- No 1<sup>st</sup> Energy director has been involved with previously revoked authorisations or licences held in any industry.
- Directors of 1<sup>st</sup> Energy have not been involved with any past or present bankruptcy proceedings in Australia or overseas.
- 1<sup>st</sup> Energy has the financial capacity to operate a retail electricity business, including meeting payment and credit support requirements with Distributors and AEMO.

A written declaration is submitted as Attachment 22.

### **4.2 Other offences**

1<sup>st</sup> Energy confirms that it has not been involved with any prosecutions under any territory, commonwealth or foreign legislation, including but not limited to, the Australian Securities and Investment Commission Act 2001 (Cth) and the Corporations Act 2001 (Cth) that are relevant to 1<sup>st</sup> Energy's capacity as a holder of a Retailer Authorisation.

We also confirm that no offences have been committed against, or been prosecuted under, any such legislation, including Directors or persons who have significant involvement in 1<sup>st</sup> Energy.

### **4.3 Police Check**

Upon request, 1<sup>st</sup> Energy is happy to commit to a criminal history check on any director or persons who have significant involvement in 1<sup>st</sup> Energy.

### **4.4 Names and addresses of key officers**

Names and current residential addresses of directors is enclosed in Attachment 6.

### **4.5 Probity and Competence**

Policies and procedures outlined above are included in the various attachments covering probity and competence of key staff.

## **5 ATTACHMENTS**

**Attachments 1-24 listed below are provided on a commercial-in-confidence basis**

Attachment 1 – Business Plan

Attachment 2 – Financial Model

Attachment 3 – 1<sup>st</sup> Energy Constitution

Attachment 4 – Shareholder's Agreement

Attachment 5 – Certificate of company registration

Attachment 6 – Shareholder's Register

Attachment 7 – Bank Statements

Attachment 8 – Organisational Structure

Attachment 9 – Resourcing

Attachment 10 – Agility/Orion CIS Overview

Attachment 11 – Agreement between 1<sup>st</sup> Energy and Agility

Attachment 12 – Training Documents

Attachment 13 – Compliance Policy

Attachment 14 – National Compliance Program

Attachment 15 – Breach Management

Attachment 16 – Complaint and Dispute Resolution Policy

Attachment 17 – Energy Risk Management Policy

Attachment 18 – Crisis Management Plan

Attachment 19 – Customer Charter

Attachment 20 – Privacy Policy

Attachment 21 – Accountant Statement

Attachment 22 – Director's Statement

Attachment 23 – Hardship Policy





## Attachment 24 – Market and Standing Offer Terms and Conditions