

Relevant entity guide

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The Department of Environment, Land, Water and Planning develops policy for the [Victorian Energy Upgrades](#) program. The program provides incentives for Victorian households and organisations to make energy efficiency improvements that save money on their energy bills and reduce Victoria's greenhouse gas emissions

The Essential Services Commission administers the program as the 'Victorian Energy Upgrades' program under the *Victorian Energy Efficiency Target Act 2007*.

For more information, visit veet.vic.gov.au.

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About this document

Victorian energy retailers that have a liability under the Victorian Energy Upgrades (VEU) program are known as relevant entities.

The purpose of this document is to help you understand your obligations as a relevant entity in relation to the calculation of 'scheme acquisitions' and liabilities and to assist you with VEU program audit processes and requirements.

A relevant entity is liable under the *Victorian Energy Efficiency Target Act 2007* (the Act) in respect of scheme acquisitions that it makes during a calendar year.

A relevant entity that makes a scheme acquisition during the year has a statutory obligation under the Act to submit an audited annual energy acquisition statement to the Essential Services Commission (the commission).

This guide begins by assisting you in determining if you are a relevant entity and providing an introduction to relevant entity compliance. The sections in the guide provide information about specific obligations relevant to you:

- Section A – Are you a relevant entity?
- Section B – Calculation of scheme acquisitions
- Section C – Scheduled activity premises
- Section D – Annual energy acquisition statements
- Section E – Audit process
- Section F – Reconciliation

Who should use this guide

You should use this guide if you are a Victorian energy retailer and:

- you need to determine if you are a relevant entity under the Act
- you are a relevant entity and you need assistance with VEU program relevant entity processes and requirements.

Section A - Are you a relevant entity?

This section outlines the criteria for determining a licensed energy retailer's VEU program liability for the 2018 compliance year. There are three criteria to determine whether an energy retailer meets the definition of a relevant entity and has a VEU program liability for the 2018 compliance year:

Criterion 1

If at any time from 1 January 2018 a licensed energy retailer has 5,000 electricity and/or gas customers.

The calculation of such an energy retailer's liability will include a proportion of those scheme acquisitions made by the retailer, based pro rata on the number of days remaining in the compliance year from the day on which the retailer's customer base reached 5,000.

Or

Criterion 2

If at any time from 1 January 2018 a licensed energy retailer has less than 5,000 electricity and/or gas customers, achieves a scheme acquisition of at least 30,000 MWh of electricity or 350,000 GJ of gas in the 2018 compliance year.

The relevant entity will be liable for all MWh/GJ Victorian scheme acquisitions made for the 2018 compliance year (not only the scheme acquisitions made after reaching 30,000MWh/350,000GJ).

Or

Criterion 3

If an energy retailer is licensed on or after 1 January 2018 and has less than 5,000 electricity and/or gas customers but achieves a scheme acquisition of at least 30,000 MWh or electricity or 350,000 GJ of gas for the 2018 compliance year on or after the date of being licensed.

The relevant entity will be liable for all MWh/GJ Victorian scheme acquisitions made for the 2018 compliance year (not only the scheme acquisitions made after reaching 30,000MWh/350,000GJ).

Section B - Calculation of scheme acquisitions

This section outlines the procedure for the calculation of scheme acquisitions for the 2018 compliance year and subsequent years.

Reviewing Australian Energy Market Operator data

Relevant entities are to use data generated by the Australian Energy Market Operator (AEMO) in mid-February after the compliance year in question.

Relevant entities are required to implement relevant processes that help assure the gas and electricity acquisitions used by the relevant entity accurately reflect the AEMO data for the compliance year in question. The commission will provide the bill runs for the compliance year being audited to the relevant entities in mid-February.

Calculation of scheme acquisitions

For the 2018 compliance year and each subsequent year, a relevant entity must include the following in the calculation of its scheme acquisitions for that year:

- The purchase of **electricity** from AEMO for on-supply to all of the relevant entity's **electricity customers** in Victoria, other than the purchase of electricity for on-supply to:
 - customers in respect of premises that are scheduled activity premises¹ (excluding premises listed as a prescribed customer).
- The purchase of **gas** from AEMO for on-supply to all of the relevant entity's **gas customers** in Victoria, other than the purchase of gas from AEMO for on-supply to:
 - customers in respect of premises that are scheduled activity premises (excluding premises listed as a prescribed customer);
 - customers who own, control or operate a gas-fired electricity generator.

¹ Scheduled activity premises are defined in Regulation 4 of the *Victorian Energy Efficiency Target Regulations 2008* (the Principal Regulations). See Section C

Section C - Scheduled activity premises

Definition

Regulation 4 of the *Victorian Energy Efficiency Target Regulations 2008* (the Principal Regulations) defines 'scheduled activity premises' as:

- premises that are listed under Schedule 37 of the Principal Regulations
- other premises that were on the register kept under section 26G of the *Environment Protection Act 1970* as at 29 June 2014, commonly known as Environment and Resource Efficiency Plans (EREP) premises.

The commission publishes a list of these premises on the Register of scheduled activity premises, which is published on the VEU program website (www.veet.vic.gov.au).

From 1 August 2017, these premises are able to 'opt-in' to the VEU program by providing written consent to the commission. However, pursuant to Regulation 12(2) of the Principal Regulations, these premises become a 'prescribed customer' under the Act on 1 January of the second calendar year in which a Victorian energy efficiency certificate (VEEC) is first registered for the premises. A prescribed customer is determined for the purposes of the definition of scheme acquisition under the Act (section 33(1)).

Once the scheduled activity premises becomes a 'prescribed customer', a VEU liability exemption no longer applies and the relevant entity must include the electricity and/or gas acquisitions from the premises in their annual energy acquisition statement calculation.

Instructions

When a non-residential customer is on the commission's Register of scheduled activity premises, the following steps must be taken:

- The relevant electricity or gas retailer should notify the commission of its customers who occupy scheduled activity premises and who are not prescribed customers further to Regulation 12(2) of the Principal Regulations (i.e. premises who are not listed as a 'prescribed customer' on the commission's Register of scheduled activity premises). These customers are to be detailed on the annual energy acquisition statement for VEU relevant entities 2018.

- The relevant electricity or gas retailer should ensure that their exemption claims match the customer names and associated scheduled activity premises address details as listed on the commission's Register of scheduled activity premises. The commission will reconcile and verify exemptions in accordance with the premises listed on the commission's Register of scheduled activity premises.
- The relevant electricity or gas retailer should ensure that exemptions are not claimed for scheduled activity premises where the customer is defined as being a prescribed customer in relation to those premises pursuant to Regulation 12(2) of the Principal Regulations (i.e. exemption claims are not made for premises with the status of 'prescribed customer' on the commission's Register of scheduled activity premises).

Reviews

It is the responsibility of the relevant entity to review the commission's Register of scheduled activity premises to determine whether any of their customer's premises have had VEECs registered and/or have become prescribed customer during the year.

The relevant entity must ensure that any changes to the status of a scheduled activity premises must be accounted for when completing the annual energy acquisition statement process.

It is also the responsibility of the relevant entity to ensure that it collates and retains sufficient evidence in relation to acquisitions of electricity and/or gas for on-supply to customers who occupy scheduled activity premises listed on the commission's Register of scheduled activity premises.

Whilst the commission makes every effort to ensure that the Register of scheduled activity premises is free from error, relevant entities are responsible for making their own assessment of the information and for verifying such information. All information on the register is subject to changes without notice. If you are aware of any inaccuracies in the register, please advise us on veet@esc.vic.gov.au.

Where to get help

For further information on changes to the Principal Regulations, please refer to the [Explanatory note - large energy users' scheduled activity premises](#)

Any additional questions regarding the calculation of scheme acquisitions should be directed via email to veet@esc.vic.gov.au or by contacting VEU Support on (03) 9032 1310.

Section D - Annual energy acquisition statements

The Act specifies that a relevant entity which makes a scheme acquisition during a calendar year must provide the commission with an annual energy acquisition statement on or before 30 April of the following year (section 33(1)).

A relevant entity's annual energy acquisition statement needs to demonstrate that the relevant entity has calculated its scheme acquisitions and corresponding VEU liability for the 2018 compliance year and each subsequent year in accordance with the procedures set out above.

Key information to be included

- The amount of electricity and gas acquired under scheme acquisitions during the compliance year.
- Exemptions claimed during the calendar year for customers who occupy a scheduled activity premises who are not defined as a prescribed customer under the Principal Regulations.
- The value, in tonnes of carbon dioxide equivalent of greenhouse gas emissions, of VEECs being surrendered for that year.
- Any carried forward VEEC surplus for the previous year.
- Any carried forward VEEC surplus for the current year.

Audits

The Act specifies that the annual energy acquisition statement must be audited by an independent third party prior to lodgement with the commission (section 33(6)).

Pursuant to section 74 of the Act, the commission has released the *Victorian Energy Efficiency Target Guidelines* (the Guidelines). The annual audit of an annual energy acquisition statement must be carried out by an auditor approved by the commission under, and in accordance with, the requirements of the Guidelines.

Section 14 of the Guidelines establishes the framework for the administration of the audit requirements imposed by the Act. It has been developed to ensure that audits are conducted in an independent, rigorous and consistent manner by establishing minimum requirements for the independence and expertise of auditors, and the conduct and reporting of audits. It provides incentives for program participants to achieve compliance by taking a risk-based approach in defining the audit scope, which is designed to maximise the cost-effectiveness of the audit process.

The Guidelines also aim to assist relevant entities achieve compliance and thereby minimise the chances of significant non-compliance going undetected.

Audit purpose

The primary purpose of the annual audit of each annual energy acquisition statement is to:

- confirm the amount of electricity and/or gas acquired by each relevant entity under scheme acquisitions during the compliance year. This will require the audit to also include verifying the exemption volumes in respect of scheduled activity premises who are not a prescribed customer pursuant to Regulation 12(2) of the Principal Regulations², to be deducted from total scheme acquisitions.
- determine the amount (if any) of the relevant entity's VEEC shortfall.

The commission seeks to accomplish this objective by ensuring that the information presented in the annual energy acquisition statement is correct and accurate and presented in accordance with the requirements of the Act, Principal Regulations and Guidelines.

² A person who occupies scheduled activity premises becomes a prescribed customer on 1 January of the second calendar year in which a VEEC is first registered for the premises.

Section E - Audit process

Under the Guidelines the relevant entity compliance process is carried out over multiple months. The audit process has been divided up into six key steps detailed below.

Step 1: Confirm the audit scope (1 October)

The audit of a relevant entity's annual energy acquisition statement must be conducted in accordance with clause 14.4 of the Guidelines, unless the commission has issued a specific audit scope that applies to the relevant entity for that compliance year.

The commission may issue a specific audit scope in relation to a relevant entity at any time prior to 1 October in any year.

In determining whether to issue a specific audit scope, the commission will have regard to:

- the obligations of the relevant entity under the Act
- the risks associated with the relevant entity, including the likelihood and consequences of non-compliance by the relevant entity
- such other matters as the commission considers relevant.

A specific audit scope determined by the commission may include additional or fewer audit requirements than what is specified in clause 14.4 of the Guidelines.

The specific audit scope will apply to the audit of the relevant entity's annual energy acquisition statement due in the following calendar year and all subsequent audit years, unless the commission varies or withdraws that audit scope by 1 October in any given year.

Step 2: Nomination of auditor by relevant entity (30 November)

The commission has established an audit panel of approved auditors for the VEU program (VEET audit panel). The panel list is published on the VEET website (veet.vic.gov.au).

By establishing the approved audit panel, the commission is seeking to reduce relevant entities' administration costs associated with identifying and nominating auditors that meet the commission's key selection criteria, and is also seeking to improve the timeliness and efficiency of the auditing process.

A relevant entity must nominate to the commission an independent auditor from the VEET audit panel to conduct an audit of its annual energy acquisition statement by no later than 30 November in any given compliance year, unless there is a current approval in place in respect of the relevant entity and its auditor.

A relevant entity may either nominate an auditor from the VEET audit panel or propose a separate auditor for approval by the commission.

If a relevant entity nominates an auditor who is not on the VEET audit panel, then the nominated auditor will be separately evaluated by the commission on its ability to meet the commission's key selection criteria for auditors set out in clause 14.1.1 (d) of the Guidelines.

When nominating an auditor, a scheme participant must provide the following information to the commission at the time of the nomination:

- The proposed auditor who will undertake the specified audit.
- The proposed individuals who will undertake any relevant audit work for the auditor (the audit team).
- The proposed individual that will lead the audit team (who must be a partner or equivalent of the auditor and who will be required to sign the audit report and take full responsibility for its findings).
- The work history and skills of the audit team leader and each audit team member, and the role they will play in undertaking the audit.
- Any work undertaken by the auditor for the relevant entity in the previous two years and any work that the auditor is currently doing or has bid for in relation to the relevant entity.
- Any potential or perceived conflict of interest and the manner in which it is proposed to be managed.
- The term of the approval requested (the commission will approve auditors for periods greater than one year but for no more than 5 years).

If the auditor has not been nominated from the VEET audit panel, the following must be provided:

- The auditor's field of work, core expertise, experience and corporate or business structure.
- Information the relevant entity wishes to provide to demonstrate that the nominated auditor meets the key selection criteria set out in section 14.1.1(d) of the Guidelines.

Step 3: Approval of auditor by the commission (31 December)

The following steps need to be completed for the commission's approval of an auditor to become effective:

- Once satisfied with the nominated auditor, the commission will provide the relevant entity with written notice of the commission's intention to approve the auditor. Such approval may be conditional.
- Any conditions attached to the commission's notice of its intention to approve the auditor have been satisfied (or waived by the commission).

- An audit deed duly executed by both the auditor and the relevant entity is delivered to the commission.
- The commission executes the relevant audit deed.

Audit deed

The audit deed is a tripartite arrangement between the relevant entity, the nominated auditor, and the commission.

Under the terms of the deed:

- the primary duty of care of the auditor is to the commission, not to the relevant entity
- the relevant entity must not require or seek changes to be made to an auditor's report if such changes would conflict with the auditor's professional judgement and its primary responsibility to the commission.
- the relevant entity must not unreasonably withhold payment or terminate any contract with the auditor over an adverse finding made by the auditor.

The relevant entity must ensure that the person nominated as its auditor does not commence any audit work on behalf of that relevant entity until the audit deed has been duly executed by all parties.

Step 4: Audit completion (30 April)

It is the responsibility of the relevant entity and the auditor to ensure that sufficient time is allowed to complete the audit prior to the lodgement date of the applicable annual energy acquisition statement.

The audit approach may vary depending on the auditor, but at minimum must meet the requirements of the Guidelines (including any applicable audit scope document issued in accordance with the Guidelines).

It is the responsibility of the approved auditor to understand and adhere to the requirements of the Guidelines when assessing information provided by the relevant entity and preparing the audit report.

The primary role of the relevant entity during the audit will be to make its staff available to the auditor to answer questions and to provide information to the auditor as requested.

It is also in the interests of the relevant entity to read and understand the Guidelines as this will provide it with a greater understanding of the audit process, including the objectives of the audit and the information being audited.

A relevant entity may request to review a draft audit report prepared by its auditor. A review of the draft audit report may provide the relevant entity with an opportunity to identify any factual inaccuracies in the report.

However, the auditor is not obliged to provide a draft audit report to the relevant entity and may choose to do so at its sole discretion.

Step 5: Lodgment (30 April)

This step involves the lodgment of the annual energy acquisition statement, audit report and offer of obligatory surrender of VEECs with the commission.

The relevant entity must submit its annual energy acquisition statement, audit report and offer of obligatory surrender of VEECs to the commission by no later than 30 April in the following year.

Step 6: Acceptance

This step involves the acceptance by the commission of the annual energy acquisition statement and audit report.

The commission will evaluate the annual energy acquisition statement and accompanying audit report in due course (see below). Where the commission is satisfied with the statement and its audit report, the commission will provide the relevant entity with an email acknowledging its approval. For instances where the commission is not satisfied with the annual energy acquisition statement or the findings in the audit report, the commission may require further investigation or actions to take place.

For example, depending on the circumstances, the commission may:

- obtain and analyse the auditor's record of its contacts with the relevant entity in order to obtain further detail of reported non-compliance, misrepresentation of data, or to investigate whether any significant changes have been made to drafts of the audit report
- require further auditing to be undertaken where it considers the final report is or may be unsatisfactory in a material respect
- require that further auditing be undertaken by another auditor approved by the commission
- request, by written notice to the relevant entity, further written or oral information pursuant to Part 8 of the Act
- have authorised officers enter premises of a relevant entity to acquire information pursuant to Part 7 of the Act. Under the Act, authorised officers may only exercise their powers to enter the premises of a relevant entity to the extent that it is reasonably necessary to do so for substantiating information provided by the relevant entity or for determining if the Act has been complied with.

Section F - Reconciliation

Reconciliation of VEU program liability against AEMO figures

Each year the commission will review and assess the annual energy acquisition statement provided by each relevant entity. In particular, the commission will review and assess:

- the VEU liability stated by the relevant entity
- the reasonableness of the VEU liability stated by the relevant entity
- the methodology for the calculation of the VEU liability adopted and demonstrated by the relevant entity in its annual energy acquisition statement.

Reconciliation of scheduled activity premises exemptions

The commission will review and assess exemptions claimed during the calendar year for relevant entity customers which occupy a scheduled activity premises which are not defined as a 'prescribed customer' under the Principal Regulations.

The commission will reconcile and verify scheduled activity premises exemption claims in accordance with the premises listed on the commission's Register of scheduled activity premises.

The relevant entity should ensure that their exemption claims match the customer name and associated scheduled activity premises address details as listed on the commission's Register of scheduled activity premises.

Disclaimer

This guide is issued to inform relevant entities of the requirements for the calculation of scheme acquisitions and to assist relevant entities and their auditors with the preparation and auditing of annual energy acquisition statements. It is not legal advice and does not affect any liability of a relevant entity to comply with its obligations under the Act, the Principal Regulations or the Guidelines. Relevant entities should seek their own legal advice in relation to their obligation under the Act.

Document version control

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1.0	Two explanatory notes (<i>Relevant entities: calculation of scheme acquisitions</i> and <i>Relevant entities: preparation and audit of annual energy acquisition statements</i>) consolidated into one relevant entity guide and updated.	8 November 2018