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Attention: Consumer Policy Team

Australian Energy Regulator

By ACCC Consultation Hub and Email: ConsumerPolicy@aer.gov.au

15 March 2024

Dear Consumer Policy Team,

Developing a Toolkit to Help Consumer-Facing Energy Businesses Identify Vulnerability

AGL Energy (**AGL**) welcomes the opportunity to provide responses to the consultation questions posed by the Australian Energy Regulator (the **AER**) in response to the abovementioned draft toolkit (the **Toolkit**).

Proudly Australian since 1837, AGL delivers around 4.3 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. As one of the largest providers of essential services, AGL has extensive experience in supporting customers experiencing payment difficulties, vulnerable circumstances and entrenched financial hardship.

AGL is acutely aware of the recent impacts of energy prices and broader cost-of-living pressures which have contributed to lower energy affordability and increased indicators of customer vulnerability. As the AER observed in its Annual Retail Markets Report for 2022-23, key measures such as 90+ day energy debts and the overall proportion of customers on hardship programs are sitting at their “highest levels in the past 5 years”¹. AGL remains committed to assisting our customers through a range of direct and indirect support measures, including those announced under our \$70m customer support package². However, we also recognise that the pervasive impacts of vulnerability warrant an ongoing and continually evolving response across all of industry.

In this regard, AGL welcomes the AER’s work to develop the Toolkit as a measure to guide and aid energy retailers to maximise their consumer support capabilities. We recognise the critical role that energy retailers must play, and this Toolkit sets out a solid foundation of ideas and concepts that retailers might adopt to supplement their regulatory and legal obligations. Much can be learned from other sectors and jurisdictions around better practice, which will only serve to raise the bar for the support afforded to Australian energy consumers. While energy retailers will undoubtedly play a critical role, we also urge greater consideration of the important role that consumers must play to engage with and access the support mechanisms available to them.

AGL’s detailed responses to the consultation questions are set out within **Appendix A** attached herewith.

If you have any questions in relation to this submission, please contact [REDACTED]

Yours sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

¹ Australian Energy Regulator, Annual Retail Markets Report 2022-23, November 2023, p 2.

² <https://www.agl.com.au/about-agl/media-centre/asx-and-media-releases/2023/may/agl-commits-70-million-to-support-customers-in-managing-cost-of->



Appendix A – AGL’s Responses to Consultation Questions

1. How appropriate and effective are the 6 better practice principles?

AGL believes that the Better Practice Principles (BPPs) are a measured and effective reflection of high-level guiding principles that may assist energy retailers to better support consumers experiencing vulnerability. In forming this view, we note the high degree of synergy between the BPPs and AGL’s own Purpose and Values³. We agree with the AER’s reflection that it is both possible and preferable to find mutually beneficial outcomes for consumers and energy businesses alike. We also agree that to truly maximise positive consumer outcomes, it requires a holistic, organisation-wide approach that permeates through our processes, technology, culture, and people. Nonetheless, energy retailers alone cannot solve the cost-of-living and vulnerability challenges that are so pervasive through society today, and as such, we recognise the importance of partnering with other like-minded organisations who can complement and supplement our own capabilities. These challenges are dynamic and evolving, especially as we navigate through the energy transition, requiring an ongoing, continuous focus on seeking better outcomes for consumers.

Ultimately, we would welcome more clarity from the AER around the intended purpose of the BPPs and how the AER would like to see the Toolkit utilised in practice. We infer from the ‘Purpose of the Toolkit’ section of the Draft that the Toolkit is for educational/informative purposes only. We would be keen to understand whether there is any expectation (now or in the future) that the Toolkit might form the basis of either a voluntary opt-in model (such as the AER’s Sustainable Payment Plan Framework) or become part of a retailer’s regulatory obligations. Importantly, these questions play a key role in a retailer’s approach to adoption of the recommendations and their resultant effectiveness. We advocate for a position whereby they play an informative, guiding, and educational role rather than one of a prescriptive, regulatory instrument. The benefits of this will be abundant: retailers will be freer to innovate and try new things, we’ll avoid prescriptive, tick-box compliance focussed solutions and more readily put the customer at the heart of our decision-making.

2. How appropriate and effective are the consumer stories used to illustrate the better practice principles in action?

AGL considers that the consumer stories referenced in the Toolkit are a fair example of the many varied experiences that our frontline agents passionately support day-in-day-out. The use of consumer stories is an effective and meaningful way to bring to life a human dimension to what might otherwise be abstract concepts.

However, the stories reflect just a small cross-section of a myriad of broad-ranging issues affecting the wider Australian community. This is an important and sobering reflection on an ever-changing landscape for supporting consumers experiencing vulnerability. The significance of this is especially pertinent for energy retailers who are tasked with solving these critical issues. An expansive definition of vulnerability compounds matters – the customer cohorts considered under Principle 3 for example, have the cumulative effect of covering large swathes of a retailer’s customer base, further highlighting the size of the problem.

A final but equally important observation is the fundamental role that consumer engagement played in achieving successful outcomes in the stories. Each of the consumers had unique personal circumstances that impacted the nature of the support they required from their energy retailer, but significantly, this would not have been evident to the retailer without engagement on the part of the customer.

³ <https://www.agl.com.au/about-agl/who-we-are/our-purpose-and-values>



Undoubtedly, the examples highlighted the importance of retailers having the necessary processes, systems and capabilities in place to support customers, but in five of the six examples, it was equally, if not more critical for the customer to take positive, proactive action to advance their position and work collaboratively with the retailer to achieve a positive outcome. AGL contends that this is also true of real-life consumer experiences.

3. How appropriate and effective are the industry case studies used to illustrate implementation of the better practice principles?

Similar to our observation with the consumer stories, the use of industry case studies is helpful to give real-life examples of the BPPs in practice. We see value in their inclusion from an illustrative perspective to show how BPPs might be translated from theory to implementation. However, unlike the consumer stories which are often ubiquitous across sectors/jurisdictions, the industry case studies will be more nuanced in their application or relevance to individual energy retailers. The case studies don't (nor can we realistically expect them to) set out the business case that underpinned the investment decision behind the initiative, having regard to both the quantum of benefits (commercial and non-commercial) as well as the individual costs of implementation for each organisation (which will vary considerably).

4. Are any aspects of the toolkit inconsistent with the needs of consumers experiencing vulnerability? If yes, please provide details.

As highlighted in our response to Question 2, we believe it is critical to highlight the importance of shared, collaborative accountability between retailers and consumers. This does not diminish the critical role that retailers must play – from a legal, regulatory and social licence perspective – but rather, for these efforts to be truly effective, they cannot occur unilaterally, devoid of complementary consumer action. It requires a concerted bilateral commitment. We believe that more needs to be done to raise appropriate awareness for consumers about the need to remain engaged with their energy retailer, supported by a protection framework that puts consumer needs at the heart. Ultimately, we believe it is in consumers' best interests to build autonomy, self-determination and self-advocacy to foster resilience and support consumers on their journeys.

AGL also believes it is important to be pragmatic and realistic about the levels of data and insights that energy retailers hold about their customers and the degree of confidence that can be assigned to indicators of potential vulnerability. Where a customer (or an authorised representative) is not engaged with their retailer to share details of their circumstances, a retailer is ultimately limited to drawing inferences about that consumer's demographics, consumption behaviour or payment behaviour. As the consumer stories highlighted, the potential range of issues affecting consumers are significantly broad and rarely evident based on data insights alone. Insights play a role in identifying customers for potential follow-up, but at that point, there is a large degree of reliance on consumers to avail themselves of the support offered. Clearly there is an important role for retailers to ensure that consumers feel trusting and open to engage and are supported in doing so.

As a final point, we reiterate our earlier comment about the broad-ranging concept of vulnerability. There exists an inherent danger in seeking to arbitrarily label or bucket consumers as being vulnerable based on inferences from attributes or observations. Indeed, it has been AGL's first-hand experience that you risk alienating, frustrating or even offending customers through such imputations. We question whether there is lesser utility in focussing efforts on identification activities, as compared to taking a baseline assumption that every consumer is vulnerable and ensuring that appropriate, respectful measures of support are built into all interactions or communications between retailer and consumer. This is arguably one of the advantages of the Victorian Payment Difficulty Framework for example (noting there are also elements which AGL would not advocate should be adopted in the NECF).



5. Would additional information and resources help consumer-facing energy businesses and their staff implement the toolkit or better practice principles? If yes, please provide details.

The information contained within the Toolkit is thought-provoking and helpful to guide internal thinking and strategic design of support mechanisms. AGL welcomes the important role that the AER Consumer Policy Team plays in researching and socialising relevant developments and better practice insights around consumer protections. However, from a retailer perspective it is AGL's view that thought leadership (or lack thereof) is *not* the major impediment to doing more to support consumers experiencing vulnerability.

The Toolkit does an admirable job of setting out a laundry list of support options for energy businesses to consider. For each energy retailer, some of these will be viable and some will not for a variety of reasons. At AGL, we are constantly seeking to continuously improve the way that we support our customers. Significantly, our functional and process teams relentlessly look to challenge the status quo of our processes and systems. Ultimately however, not all ideas will progress through to execution – nor should they. An important part of our change management process is to consider all options, assess their effectiveness and viability as well as prioritise them against other competing initiatives that are all vying for a finite pool of capital or operating expenditure. An added important consideration is the cost-to-serve implications of the decisions we take and the ultimate impact that will have on our customers in their energy costs, the significance of which is compounded by current cost-of-living pressures. A final consideration is the impact of continual regulatory/compliance changes and raising appropriate awareness that these mandatory changes will often usurp discretionary initiatives. An example of this in practice is proposed changes to the AER's Performance and Reporting Procedures and Guidelines which will necessarily involve a reprioritisation of data and reporting experts away from initiatives such as building out additional proactive monitoring and controls.

From a practical perspective, we recommend that there is an ongoing role for the AER to play in supporting initiatives aligned with the BPPs, including those considered under the *Towards Energy Equity* strategy and the *Game Changers* initiative. Examples of practical changes which could be championed by the AER include (but are not limited to): centralised consumer support information/collateral – especially those in languages other than English, information/awareness campaigns to highlight the role of consumers in accessing support and continuing to advocate for systemic improvements to support mechanisms such as concessions and rebates.

6. Do you have any other feedback on the draft toolkit?

AGL does not have any additional feedback to provide other than that outlined in our responses to the preceding questions.