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Ms Sarah Proudfoot
General Manager—Retail Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

By email: AERExemptions@aer.gov.au

Review of AER's (Retail) Exempt Selling Guideline – AGL's submission



AGL Energy (**AGL**) welcomes the opportunity to comment on the Australian Energy Regulator's (**AER**) amendments outlined in the *Draft (Retail) Exempt Selling Guideline* version 4 dated September 2015 (**Guideline**).

AGL is a significant retailer of energy with over 3.7 million electricity and gas customers nationally. Accordingly, AGL has a strong interest in the efficient delivery of energy services for the long-term interests of consumers.

AGL fundamentally supports the development of new products and services in the electricity market, and has a strong interest in providing innovative energy products and services to its customers. Indeed, one of AGL's subsidiaries, AGL Energy Services Pty Limited has been granted an individual exemption for its solar Power Purchase Agreement (**SPPA**) business. Additionally, AGL supports increased competition in embedded networks as we believe this will result in a better outcome for Australian energy consumers.

The National Electricity Market (**NEM**) is undergoing a major change, moving from a linear value chain to a customer driven market. This transformation has been an evolution of policy, emerging technology and price. All of these variables have a direct impact on our customers, and as a result our customer needs are changing.

In today's environment, our customers expect innovation, they want to feel empowered but most importantly they want to choose how they manage their energy consumption.

AGL has embraced this evolutionary market transformation, working with industry to shape the priority policy drivers, and as a business, seizing the opportunities to respond to energy customer needs. As a result, AGL's New Energy Services business unit, has been established to provide distributed energy services and solutions to all end use customers.

Within the New Energy Services division, we are able to offer customers with beyond the meter energy solutions. This includes solar PV systems for both residential and business customers and new technologies such as batteries and other energy storage solutions. Complementing this is our metering and data solutions business called Active Stream.

New Energy Services works with customers of all sizes to understand their energy requirements and design solutions tailored to their lives, needs and goals.

AGL broadly supports the AER's proposed amendments to the Guideline. AGL strongly supports the AER's light-handed approach to regulating alternative energy sellers through the exemption framework, including the introduction of a new class exemption for PPA providers.

AGL submits that it is important that overly complex policy and regulation is not introduced into this space as it would add cost and create barriers to competition, customer choice and

innovation. In AGL's view, the following four policy principles are essential to support innovation in the energy market and the development and deployment of new technologies:

- Appropriate technology standards
- Competitive neutrality
- Ring fencing monopoly businesses
- Cost reflective network tariffs

Embedded networks

AGL is aware that the Australian Energy Market Commission (**AEMC**) is currently consulting on its Draft Determination to the Embedded Networks Rule Change (the **Draft Determination**) in the NEM. Although we support the Draft Determination, AGL considers that the proposed changes to the National Electricity Rules (**NER**) are largely dependent on additional changes to both the National Energy Retail Rules (**NERR**) and more importantly the AER's Electricity Network Service Provider Registration Exemption Guideline and/or the Retail Exempt Selling Guideline.

In our view, changes to these regulatory frameworks, particularly those under the AER's remit, are critical, if the proposed changes to the NER are to deliver on their intended purpose. The regulatory frameworks must be consistent and include at a minimum, a requirement for:

- updated standards for meter reading, testing and inspection so embedded customers can access retail competition without having to upgrade/purchase their meter;
- unbundling of network charges to enable retailers to better quantify the costs of providing retailer services to embedded customers;
- clarity on the obligations, requirements and information exchange provisions to protect and obligate relevant market parties within embedded networks; and
- an equivalent level of consumer protections for embedded customers, to that provided for customers in the NEM.

AGL encourages the AER to consider the changes proposed by the Draft Determination when deciding on its proposed amendments to the Guideline. It is also important that the AER engages with the AEMC on this matter.

AGL is of the view that coordination in these matters is necessary to ensure consistency and efficiency in the application of these changes.

Regulation of alternative energy sellers

AGL has a firm belief that regulation of all alternative energy selling models should be technology neutral. Technology is rapidly developing, therefore regulation will struggle to keep up unless it allows for flexibility to adapt to changing circumstances.

AGL supports:

- innovation and the removal of barriers to the deployment of technology that may be beneficial to customers and the industry as a whole; and
- maximising customer choice in relation to distributed generation, energy storage and emerging technologies while ensuring that all customers who purchase energy from an authorised retailer or an alternative energy seller receive a similar level of consumer protections, particularly where energy is being sold to residential and small business customers.

AGL strongly supports the AER's view that regulation needs to be fit for purpose, flexible and not duplicating other legislation. It is of paramount importance that any regulatory framework implemented for alternative energy sellers does not duplicate the existing applicable legislation, but rather takes a flexible light-handed approach to regulation. This will allow the framework to adapt to the rapidly changing energy market.



AGL's view is that a principles-based approach will facilitate the development of a smart and flexible regulatory framework that allows alternative energy selling business models to evolve to support a customer driven market while maintaining a level playing field amongst all energy providers.

As previously submitted to the AER and drawing on the four policy principles outlined above, AGL's view is that the following principles should underpin the development of any regulatory framework implemented to support alternative energy selling business models:

- Ensuring adequate and appropriate consumer protections and promoting informed consumer choice.
- Encouraging innovation in the energy market.
- Ensuring competitive neutrality to allow different products and services, and different providers within markets, to compete openly on their merits.
- Avoiding cross subsidies between consumers.
- Developing a nationally consistent approach with implementation of policy decisions and direction applied consistently across all states. This includes rules, industry guidelines and technical standards.
- Providing safe, secure, and reliable supply of energy to consumers on fair and reasonable terms.

AGL strongly supports the AER's finding that the exemptions framework is the most appropriate mechanism to regulate alternative energy sellers, as this will allow for a flexible principle-based approach to regulation that will be able to accommodate the continuously evolving energy market.

Please find **attached** at Appendix A AGL's response to the specific questions included in the *Notice of Draft Instrument: Amendments to the AER (Retail) Exempt Selling Guideline* dated September 2015 (**NODI**).

AGL looks forward to engaging further with the Commission as part of this consultation process. Please contact Leilani Kuhn on 03 8633 6934 if you wish to discuss any aspect of this submission further.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'R. Brigham'.

Rebecca Brigham
Manager, Regulatory & Compliance Services

APPENDIX A

1. Should the electricity tariff cap that exempt sellers may charge small customers (i.e. relevant retailer standing offer) be retained? If not, how else can small customer tariffs be kept to a reasonable level?

AGL supports the current electricity tariff cap being retained for exempt sellers operating an embedded network as customers in embedded networks cannot currently access the benefits of full retail contestability. As embedded networks become more competitive, this requirement could potentially become redundant.

AGL understands that the current electricity price cap does not apply to PPA providers and supports the AER decision not to apply a price cap to PPA providers. AGL submits that as PPA customers have access to grid supplied electricity, and as such the benefits of full retail contestability, it is not appropriate for the AER to impose price regulation on those exempt sellers. Furthermore, AGL suggests that there would be practical difficulties forecasting the standing offer price over the term of a PPA contract (generally a 10-15 year period).

Where markets are sufficiently competitive, any form of pricing regulation for conventional supplies or new energy services is likely to form a barrier to the entry of new technologies, services and business models and will constrain innovation and investment in the sector. Strong competition in energy markets produces more innovative products and lower retail price offers for consumers than price regulation.

2. Are there any potential barriers to exempt sellers offering a customer a minimum of two payment methods (see new Condition clause 3(2)).

AGL does not see any barriers to exempt sellers offering two payment options.

3. Under Condition 11 - Reconnection of supply - the AER has removed the term 'as soon as practicable' in relation to the requirement that an exempt seller must reconnect the premises. We seek views on whether the obligation should be time limited and if yes, what limits should be imposed.

AGL does not consider that the obligation to reconnect supply should be time limited as many embedded networks already have tight timeframes for reconnections due to commercial agreements that are in place.

4. We are proposing to require exempt sellers to claim government rebates or concessions on behalf of customers who cannot claim the rebates or concessions themselves. In the current guideline exempt sellers must use best endeavours only. We are interested to understand what this change would mean for exempt sellers—in particular, what costs exempt sellers would incur in making the claims. We are also interested in whether stakeholders see other possible solutions to this issue.

AGL are broadly supportive of the requirement that exempt sellers claim government rebates or concessions on behalf of customers. However, it is important that this requirement:

- only applies to customers within an embedded network and not all exempt sellers generally (i.e. PPA providers);
- will apply where the rebates or concessions can only be claimed by the exempt seller and not where exempt customers can claim the benefit themselves; and
- allows the exempt sellers to apply the benefit directly to the customer's account.

5. We are proposing a new class for power purchase agreement (PPA) providers who sell to business customers or residential customers where the PPA has particular characteristics, including limiting it to residential agreements of no more than a 10 year term.

- a. Is this term appropriate? Do you consider a different term would be better?**



- b. Are there any other criteria the AER should include for eligibility for this class?**
- c. Should the class be extended to cover other types of alternative energy seller?**

AGL welcomes the introduction of a new class exemptions for PPA providers.

AGL submits that a 15 year term would be more appropriate than the proposed 10 year term as a longer term will:

- make PPAs more competitive as the early monthly repayments would be lower;
- future proof the new class exemption by ensuring that PPAs stay competitive following the introduction of tariff reform and any future bundling of solar and battery storage; and
- ensure that the solar technology installed under the PPA is maintained and replaced (if required) for a longer period.

AGL does not consider any further eligibility criteria is required for this class exemption other than that already proposed.

AGL also does not consider that this class exemption should be extended to cover other types of alternative energy sellers at this stage.

6. Your views on any other proposed changes.

AGL is very supportive of the AER proposed light-handed approach to regulating alternative energy sellers. As the AER is well aware, this space is continually evolving and whilst AGL strongly supports appropriate customer protections being in place, flexibility is needed to encourage innovation and competition that responds to customer driven requirements and needs. In AGL's view, it is important that any regulatory framework does not seek to duplicate existing regulation but rather offers an adaptable, simple, principle-based approach that is technology neutral and can evolve to meet the expectations of the energy consumers of tomorrow.