



**27 January 2017**

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Submitted via email to [AERInquiry@aer.gov.au](mailto:AERInquiry@ aer.gov.au)

AGL Energy Limited (**AGL**) welcomes the opportunity to respond to the Australian Energy Regulator's (**AER**) Compliance Procedures and Guidelines (**the Guidelines**).

AGL is Australia's largest integrated energy company, operating across the supply chain with investments in coal-fired, gas-fired, and renewable electricity generation and is a significant retailer of energy, providing energy solutions to over 3.7 million customer accounts across Australia.

#### **Compliance Audits**

AGL understands the need to refine the AER's obligation regarding audits, however it believes that there is a lack of sufficient guidance regarding when an audit may be deemed appropriate and when it is not, beyond the concept of "reasonableness". Audits can be time consuming for both the retailer and the AER, and can unfortunately interrupt other streams of work that are striving towards proactive solutions to ensure compliance among market participants. And although it is appropriate for a regulator to undertake audits to ensure that retailers are meeting their obligations, AGL believes that it may be prudent to develop further guidance to ensure that the audits are not burdensome where a retailer can demonstrate a high level of compliance and effective controls within their business.

A potential way forward could be to not have entities with a high level of compliance being subjected to frequent audits, unless the AER believes that compliance has slipped. For example, a retailer who has been shown by a third party auditor to have a high level of compliance may not be subject to a further audit for 3 years unless the AER has reason to believe that the entity is no longer compliant.

Another recommendation is to have the retailer participate in the input of the audit scope; for example, the retailer may want to discuss obligations which may have been already audited by the ESC, ESV, etc. and found to be compliant.

Finally, we would encourage the AER to continue to work informally with retailers to understand compliance processes without the need for a third-party audit. The AER has broad information gathering powers and, where there is a question of general compliance with the Rules, AGL would prefer to work with the regulator in providing information directly to ensure

that the regulator understands our processes and how compliance is met. In our view, it would be useful for the AER to take this initial step prior to appointing an auditor to look at general issues that may not be of concern after initial information is provided.

### **Immediate reports**

Expanding the immediately reportable breaches to include disconnections that may be in breach of all sections of Rule 116 has the potential to create and increase additional administrative burden to both the retailer and the AER, especially for those breaches that are of a less time-critical nature than the current immediately reportable breaches.

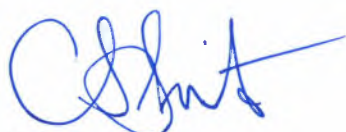
The purpose of immediate reporting is to resolve time-critical breaches or prevent further breaches of that nature. However, as AGL investigates critical disconnection disputes immediately, there is little utility in the reporting of these breaches within a few days apart from making the regulator aware of the potential breach.

If a breach is clear, by the time a breach is reported, all affected customers are likely to have been reconnected and any potential systemic issue is likely to have been identified and resolved. However, if a breach is less apparent, the two day time frame would be inadequate to perform a detailed review, investigation, and remediation of any process failure that led to a compliance issue, and have a managing director or CEO endorse and sign a report.

Our preference would be that an immediate report is provided by a CEO delegate that could include any initial information and allow the AER to respond with any immediate advice. Further information could then be provided in the quarterly report, or in any follow up report as could be requested by the AER in the interim. Alternately, our preference would be that sign-off is provided by a director of the licensee, rather than the nominal CEO of any holding company to those licensees. This provides for a more direct obligation to the licensee, and recognises that obtaining sign-off at short notice without allowing for an alternate or delegate might impact the speed at which a report can be prepared or provided to the regulator. In our view, an appointed CEO delegate would be a more appropriate party to provide the regulator with detailed information regarding a potential breach at short notice.

If you have any further questions in relation to this submission, please contact Jo Gaetani (Network Strategy & Regulatory Advisor, [jgaetani@agl.com.au](mailto:jgaetani@agl.com.au)).

Regards,

A handwritten signature in blue ink, appearing to read 'Aleks Smits', with a long horizontal stroke extending to the right.

Aleks Smits

Network Strategy & Regulatory Manager, AGL Energy Ltd