



24 January 2017

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

By email: [retailcompliance@aer.gov.au](mailto:retailcompliance@aer.gov.au)

Dear Ms. Proudfoot,

### **Draft Amendments to the AER Compliance Procedures and Guidelines**

Thank you for the opportunity to comment on the Australian Energy Regulator's ("**AER**") proposed draft amendments to its Compliance Procedures and Guidelines ("**the Guidelines**") released for public consultation on 9 December 2016 together with the Notice of Draft Instrument ("**Notice**"), and the Draft AER Practice Guide for Compliance Audits.

APA Group ("**APA**") understands that the Guidelines establish an exception reporting framework which requires regulated entities to submit information and data to the AER on their compliance with the *National Energy Retail Law* ("**NERL**"). The AER's proposed amendments are intended to refine this framework and improve the quality of the reports submitted.

APA also understands that since the current Guidelines were last revised in September 2014, the Australian Energy Market Commission (AEMC) has made changes to the National Electricity Rules (NEL) and the NERR. These changes include rules to expand competition in metering and related services and changes to make it easier for consumers to obtain information about their energy consumption and billing information from retailers and distributors. As a result, the AER considers the need to re-open the Guidelines to incorporate these provisions, as well as consult on new rules for possible inclusion in the reporting framework.

APA supports the AER's commitment to refine your compliance program and framework to better reflect the AER's compliance objectives, which includes balancing the need to monitor compliance and the impact on businesses to respond to and report on breaches of the NERL and NERR.

On the amendments themselves APA generally supports all changes as set out in the Notice, however, does have concerns with the proposed frequency of reporting in relation to rules 116(1), 120(1) and 124A(1) of the NERR. The current reporting frequency for the various 120(1) sub-rules under NERR do vary. APA believes that this variation in frequency aligns with the potential risks and impacts to customers associated with these obligations. For example, the potential impact or consequence from a de-energisation to a customer with a registered life support equipment (rule 120(1)(a)) is far greater than a de-energisation undertaken during a protected period (rule 120(1)(e)). AER's proposal to align the reporting frequency of potential breaches of 120(1) sub-rules does not appear to align with their risk based approach as outlined in the AER Compliance & Enforcement Approach document. AER does not provide any justification for the change other than they should be aligned. There are also inconsistencies with the proposed amendments as discussed in the various consultation documents and the actual draft amendments – refer table b of the Notice of draft instrument Amendments to AER Compliance Procedures and Guidelines.

In APA's experience, the number and / or potential for breaches for this obligation has reduced significantly and believe that the potential for futures instances will be unlikely. Additionally, from APA's experience, the majority of potential protected period breaches have occurred within small timeframes either side of a protected period and so the extent

of impact to a customer is likely to be much lower than those if conducted on a weekend or a public holiday. APA suggests that, rather than increasing the reporting frequency, an assessment of any potential impacts or consequences to customers should be used to determine the basis for any changes to reporting requirements.

While we have focused on the justification for the changes above, we also note that there are potential administrative impacts for all parties should the proposed changes be implemented. The changes made to the Guidelines in September 2014 were undertaken in support of the Federal Government's deregulation agenda and the goals to remove the burden of unnecessary regulation. APA believes, and without disregard to ensuring that adequate protections are in place for consumers, that any currently proposed amendments to the Guidelines should be consistent with that approach.

In addition to the above, APA supports the AER's proactive approach to improve the pro-forma template and explain its approach to compliance audits. Although APA has no issue with the current reporting pro-forma template, we have no concerns in adopting the proposed single pro-forma report template, should it be implemented. Similarly, APA has no issue or comments with AER's proposed amendments to compliance audits and the Practice Guide for Compliance Audits.

Lastly, APA notes that implementation of any proposed amendments to the reporting framework will be by 1 July 2017. APA has no concerns with this timeframe but would appreciate as much lead time as possible prior to this date for imbedding the final amendments into our business.

APA trusts its response is of assistance to the AER, however, if you have any further questions or comments please contact me on (08) 8159 1633 or email [glenn.sorensen@apa.com.au](mailto:glenn.sorensen@apa.com.au).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Glenn Sorensen', with a long horizontal flourish extending to the right.

Glenn Sorensen

A/Manager Technical & Regulatory Compliance