

NATIONAL ENERGY RETAIL LAW

SECTION 105

SURRENDER OF RETAILER AUTHORISATION 12009

TO: Australia Power & Gas
c/o AGL Energy Limited
Level 22
120 Spencer Street
MELBOURNE VIC 3000

The Australian Energy Regulator (**AER**) has, on the application of Australian Power and Gas (ACN 118 609 813) (**APG**) on 21 February 2014, decided to approve APG's surrender of retailer authorisations TE12009 and TG12009 (**the surrender**).

Pursuant to section 105 of the *National Energy Retail Law* the AER has decided:

1. that the surrender shall take effect on 30 June 2014; and
2. to impose on APG the conditions specified in Schedule 1.

The reasons for imposing the conditions specified in Schedule 1 on APG are set out in Schedule 2.

DATED 14 March 2014

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Andrew Reeves
Chair
Australian Energy Regulator

SCHEDULE 1

CONDITIONS IMPOSED ON AUSTRALIAN POWER & GAS

1. APG must notify the AER when it has transferred all of its electricity and gas customers from:
 - (a) a market retail contract or standard retail contract (as the case may be) that each of APG's electricity and gas customers entered into with APG (**APG Retail Contract**)
to:
 - (b) a market retail contract or standard retail contract (as the case may be) entered into with:
 - (i) AGL Energy Limited (ACN 115 061 375) (**AGL**) (**AGL Retail Contract**); or
 - (ii) another authorised retailer.
2. APG must ensure that the terms and conditions that are included in the APG Retail Contract and the AGL Retail Contract in relation to:
 - (a) non-price matters, are the same except in relation to any exit fees or early termination fees which are not to apply within the first three months of an Affected Customer entering into an AGL Retail Contract; and
 - (b) price matters, are the same unless those terms and conditions in the AGL Retail Contract provides for a price that is effectively lower than the price the APG Retail Contract provided for.
3. APG must ensure that the following information is recorded in AGL's systems:
 - (a) whether the Affected Customer, on the day before the day the Affected Customer is to be transferred to an AGL Retail Contract:
 - (i) is on a payment plan in accordance with rule 33(1)(b) of the *National Energy Retail Rules* (**APG Payment Plan**);
 - (ii) participates in APG's Energy Support Program as set out in APG's *National Energy Support Program – Hardship Policy* dated 10 February 2012 (**AER Approved Hardship Policy**); and
 - (iii) is registered at a premises that has life support equipment in accordance with Part 7 of the *National Energy Retail Rules*;
 - (b) for each Affected Customer who is recorded as being on an APG Payment Plan under paragraph 2(a)(i):
 - (i) the payment amount and frequency;

- (ii) the commencement and expiry date of the payment plan;
 - (iii) any outstanding payment amounts owing on the payment plan to APG on the day before the day the Affected Customer is to be transferred to an AGL Retail Contract;
 - (c) for each Affected Customer who is recorded as participating in the AER approved hardship policy under paragraph (a)(ii), the details of the assistance that is provided to them.
4. APG must ensure, for each Affected Customer who is recorded as:
- (a) being on an APG Payment Plan under paragraph 2(a)(i); or
 - (b) participating in the AER Approved Hardship Policy under paragraph 2(a)(ii), upon being transferred to the AGL Retail Contract, is not required to reapply to:
 - (c) be on a payment plan; and
 - (d) participate in an AER Approved Hardship Policy,
- on the same terms and conditions as set out in the APG Payment Plan and the AER Hardship Policy.
5. For each Affected Customer who is transferred from an APG Retail Contract to an AGL Retail Contract , AGL must not:
- (a) charge the affected customer an exit fee, or early termination fee, in relation to the termination of the AGL Retail Contract for a period of no less than three months from the date of transfer.
6. Inform the AER once APG has complied with the conditions set out in paragraphs 2–5 above and evidence such compliance if requested by the AER.

SCHEDULE 2

REASONS FOR IMPOSING CONDITIONS ON APG

The Australian Energy Regulator (AER) has considered an application from Australian Power and Gas Pty Ltd (APG) (ACN 118 609 813) in accordance with the National Energy Retail Law (Retail Law). The AER may decide to approve the surrender of a retailer authorisation if it is satisfied that arrangements relating to the surrender will appropriately manage the transfer of any retail customers.¹ APG is seeking to surrender both its gas and electricity authorisations, which it has held since July 2012.

The AER has decided to approve the surrender because it considers that the arrangements for the transfer of all of APG's gas and electricity customers are appropriate. The AER considers that the arrangements in place, which provide for the transfer of APG customers to AGL, are appropriate to manage the continuity of energy supply to these customers and to ensure that affected customers are made aware of the surrender of APG's authorisations, and how the surrender may affect particular customers.

In deciding to approve the surrender of a retailer authorisation, the AER—

- a) may, after consulting the Australian Energy Market Operator (AEMO), impose conditions for the transfer of customers to another retailer; and
- b) must fix a time, no later than 6 months after deciding the application, for the surrender to take effect.²

The AER has consulted with AEMO as required by the Retail Law.

In consultation with AEMO, the AER has decided to place several conditions on the surrender of APG's retailer authorisations. These conditions are designed to facilitate the smooth transfer of customers to AGL and to ensure that previous APG customers are not disadvantaged by the transfer to AGL. Specifically, all customers must be able to access contracts which provide the same terms and conditions (including price) as the customer's previous contract with APG.

Further, the AER has placed a condition on AGL (as the incoming retailer) that customers transferred as part of the retailer authorisation surrender must not be charged early termination fees for at least 3 months after the customer is transferred, should the customer elect to transfer to another retailer.

The AER has also decided that AGL must notify the AER of the successful transfer of all APG customers to AGL (or to other retailers, where the customer has elected to switch). This will ensure that all customers have been transferred before the surrender of APG's authorisations takes effect.

AGL acquired APG in October 2013. The application for surrender of APG gas and electricity retailer authorisations sets out clear processes for the transfer of all existing APG customers to AGL market participant IDs in the national wholesale market. All existing APG customers will be transferred to AGL Sales Pty Ltd (an authorised retailer), save for gas

¹ National Energy Retail Law, section 105 (3)

² National Energy Retail Law, section 105 (4)

customers in New South Wales (who will be transferred to AGL Retail Energy, also an authorised retailer).³

The surrender of APG's electricity and gas authorisations will take effect on **30 June 2014**.

³ A full list of authorised retailers can be found on the AER's website at <http://www.aer.gov.au/node/1265>