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Manager - Energy Market Reform Team
National Energy Market Branch
Department of Industry Tourism and Resources
GPO Box 9839
Canberra ACT 2601

Dear Sir or Madam

National Electricity Rules - second exposure draft

The Australian Gas Light Company (AGL) is pleased to respond to the Second Exposure Draft of the National Electricity Rules (the Draft Rules).

AGL is a major industry participant with interests in electricity generation, distribution and retailing and gas transmission, distribution and retailing. AGL has been involved in the energy market reform programs in Australia, particularly the National Electricity Market (NEM) and is therefore well placed to comment on the Draft Rules.

In its December submission on the National Electricity Rules, AGL commented on the need for full and thorough consultation during the current energy market reform. In the presentation AGL made to the related forum, it was noted that:

- The NEM is complex and parties who are involved in the day to day operation of the NEM have the requisite experience and detailed understanding of the complexities to be able to constructively offer solutions and understand the subtleties of particular changes; and
- Consultation needs to be commenced early to allow the best solutions to emerge.

AGL welcomes the amendments contained in the Draft Rules that have addressed clear drafting errors but remains concerned that the Draft Rules do not address many of the substantive points made by participants in response to the First Exposure Draft.

The SCO state that "*the changes proposed in the draft Rules (and the new NEL) were not aimed at changing the regulatory obligations and substantive rights of participants*"¹. In some instances, however, the changes do change the regulatory obligations and substantive rights. In some cases, provisions which have protected the rights of participants, or clarified how supervisory bodies were to undertake their roles, have been deleted.

For example, clauses 8.5.1, 8.5.4, 8.6.4, 8.7.3 and 8.7.4 of the Code have been deleted without a clear rationale. Equivalent provisions are not included in the Law and accordingly, the deletion of these clauses from the Code clearly changes the rights of participants. The SCO paper issued with the Draft Rules does not address the concerns that participants expressed about the deletion of these clauses during the earlier consultation.

The SCO also state "*The changes were designed to accommodate the new institutional arrangements agreed to by the MCE in its 2003 Report and to give effect to the conversion of the Code into Rules made under the new NEL*"². AGL has previously noted, however, the changes to the National Electricity Law and the Rules go further than the position established by the MCE in relation to these changes.

AGL re-iterates its call that any changes that reduce the rights of participants should not be made as part of this process. Rather, those changes should be the subject to the full Rules change process. AGL also seeks that provisions in the Code that complete previous reforms, such as the

¹ Fourth paragraph of page one of the "Response to Key Issues Raised by Stakeholders on the Exposure Draft of the National Electricity Rules, Released on 10 December 2004" MCE website, April 2005

² Op Cit.

reviews in chapters 3, 5 and 6 of the Code be retained in the Rules. If necessary, the Australian Energy Market Commission (AEMC) could be required to review these provisions and, following a proper consultation, delete those considered to be unnecessary.

AGL has not reviewed the Draft Rules to identify all possible errors. AGL has noted, however, that the Draft Rules still contain some drafting errors as a result of changes made by the SCO. For example, changes to Part 8 of Chapter 8A, the Snowy Derogation, will require a commencement date to avoid market disruption and the correction to clause 6.18A(c) has not remedied the problem. We also note that explanatory document to the Draft Rules refers to a review of Chapter 6 that has not been announced. If the reference is to the requirement under section 35 of the Law for the AEMC to make Rules in relation to parts of Appendix 1 of the Law, then the matters mentioned in the explanatory document are outside of the task given to the AEMC.

Please contact my office on (02) 9921 2585 if you have any queries.

Yours sincerely,

Dr Robert Wiles
General Manager Regulation and Policy