

## **Market Disclosure Policy**

This policy explains how AGL Energy Limited manages its continuous disclosure obligations and communicates with financial markets.

Approved by Board: 24 February 2010

## **PREAMBLE**

The purpose of the Market Disclosure Policy of AGL Energy Limited ("AGL") is to facilitate a fair and well informed market consistent with the objectives of the Australian Securities Exchange ("ASX"). It has been endorsed by the AGL Board and senior management.

AGL is committed to meeting its market disclosure obligations under the Listing Rules and the Corporations Act thereby ensuring all its stakeholders have timely and equal access to information provided by the company.

The Market Disclosure Policy encompasses both continuous disclosure obligations as well as communication with financial markets. It is designed to provide all stakeholders with an explanation of how AGL meets its market disclosure obligations.

The Policy is supported by a Market Disclosure Committee chaired by the Managing Director.

Its task is to ensure:

- Immediate and effective disclosure of all material information to the ASX, when required by law or the ASX Listing Rules; and
- Relevant AGL employees are aware of the practices and procedures contained in the policy.

The Company Secretary is responsible for ensuring the policy is up to date as well as ensuring its implementation including all communications with the ASX. Any queries about the policy can be directed to the Company Secretary on (02)9921 2680.

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## **A. CONTINUOUS DISCLOSURE**

### **1. Continuous Disclosure Obligations**

#### **1.1 Principle of Continuous Disclosure**

The ASX Listing Rules contain provisions requiring the continuous disclosure of information to keep the market informed of events and developments as they occur. Listing Rule 3.1 is fundamental to the ASX's continuous disclosure regime and is supported by the ASX's market information principle that:

*'Timely disclosure must be made of information which may affect security values or influence investment decisions, and information in which security holders, investors and ASX have a legitimate interest.'*

(ASX Guidance Note 8)

AGL is committed to complying with the obligations contained in the ASX Listing Rules and the Corporations Act relating to continuous disclosure.

Listing Rule 3.1 requires immediate disclosure to the ASX of any information relating to the company of which AGL is aware that a reasonable person would expect to have a material effect on the price or value of AGL's securities. In this context, AGL becomes aware of information if a Director or senior manager has, or ought reasonably to have, come into possession of the information in the performance of their duties as a Director or senior manager of AGL.

#### **1.2 Exception to Principle**

There is an exception to Listing Rule 3.1. Information does not have to be disclosed while **all** of the following are satisfied:

- A reasonable person would not expect the information to be disclosed;
- The information is confidential and the ASX has not formed the view that the information has ceased to be confidential; and
- One or more of the following exceptions applies:
  - It would be a breach of law to disclose the information.
  - The information concerns an incomplete proposal or negotiation.
  - The information comprises matters of supposition or is insufficiently definite to warrant disclosure.
  - The information was generated for internal management purposes.
  - The information is a trade secret.

## **2. Disclosure Practices & Procedures**

### **2.1 Disclosure Officer**

The Company Secretary is the Disclosure Officer for the purposes of the policy. In this capacity the Company Secretary manages all communications with the ASX.

### **2.2 Market Disclosure Committee**

AGL has established a Market Disclosure Committee. The Market Disclosure Committee is a management committee and comprises the Managing Director, Disclosure Officer, Chief Financial Officer and Head of Investor Relations. Any director of AGL may attend a meeting of the Market Disclosure Committee and will be an ad hoc member of the Committee whilst in attendance at the meeting. The Head of Investor Relations is the convenor of the Market Disclosure Committee.

The purpose of the Market Disclosure Committee is to establish, implement and supervise a continuous disclosure system.

The Market Disclosure Committee is responsible for:

- Deciding if information should be disclosed to the ASX subject to any decision of the Board.
- Recommending to the Board a system to monitor compliance with continuous disclosure obligations.
- Monitoring regulatory requirements so that this protocol continues to conform with those requirements.
- Monitoring movements in security price and security trading to identify circumstances where a false market may have emerged in AGL's securities.
- Making decisions about any trading halts subject to discussion between the Chairperson and Managing Director, including whether, in the circumstances, the matter should be first considered by the Board.
- Reporting to the Board details of material considerations of the Market Disclosure Committee including details of announcements made to the ASX, matters considered by the Market Disclosure Committee as not required to be disclosed to the ASX, and instances where either the Managing Director or the Chief Financial Officer has – independently of the Market Disclosure Committee – determined that a matter is not required to be disclosed to the ASX.

The Market Disclosure Committee will put in place processes to enable all company announcements:

- to be made in a timely fashion;
- to include all relevant information;
- to be factually accurate; and
- to be clearly and objectively written to allow investors to assess the impact of information on their investment decisions.

The Market Disclosure Committee is able to take legal advice as it considers appropriate.

Decisions of the Market Disclosure Committee about the content of any disclosure are by consensus of those members of the committee available when a decision is required. Any matter on which the Market Disclosure Committee is unable to reach a consensus must be referred to AGL's Chairperson (or if the Chairperson is unavailable to one of the other non-executive Directors) for a decision.

Company announcements of significance will be referred by the Managing Director to the Chairperson (or a Director appointed on behalf of the Chairperson) who will determine whether the relevant disclosure should be considered by the Board prior to being issued.

**For the avoidance of doubt:**

- **the substantive content of all market presentations relating to the company's annual or half yearly financial results; and**
- **any statement relating to the future earnings performance of the company**

**must be referred to, and approved by, the Board before being disclosed to the market.**

**2.3 Meetings of the Market Disclosure Committee**

The Market Disclosure Committee may meet on an ad hoc and informal basis as required to consider, on a contemporaneous basis, whether information is required to be disclosed to the ASX under Listing Rule 3.1.

However, the Market Disclosure Committee must formally meet at least six-monthly to review all decisions made between meetings on whether to disclose or not disclose information and to determine whether to recommend changes to this policy or the Market Disclosure Plan. Notice of the holding of formal meetings must be circulated to the Board in reasonable time to allow directors to attend if they so choose.

## **2.4 Internal Reporting Process**

Disclosure Officers have been appointed to each Business Unit to coordinate the provision of material information to the Company Secretary and the Head of Investor Relations, as convenor of the Market Disclosure Committee. Employees must inform their Business Unit Disclosure Officer of material information as soon as possible. This is defined as:

- Information which meets the “Materiality Guidelines” advised by the Market Disclosure Committee; and
- Any potentially material price or value sensitive information or proposal.

Where employees obtain information which they think may need to be disclosed to the ASX they must immediately notify their Business Unit Disclosure Officer who will advise the Company Secretary and the Head of Investor Relations. If an employee fails to comply with this policy or the Materiality Guidelines he or she may face disciplinary action, including dismissal in serious cases.

Six-monthly reports are provided to the Board on all matters that have been considered by the Market Disclosure Committee.

## **2.5 Materiality Guidelines**

The Market Disclosure Committee has endorsed “Materiality Guidelines” which are available to employees to enhance their understanding of what may be material information for disclosure purposes.

The Company Secretary and Business Unit Disclosure Officers are responsible for communication of this policy and the materiality guidelines to all Business Unit employees. Any amendments to the guidelines will be communicated to Business Unit Disclosure Officers by the Company Secretary. It is the responsibility of the Company Secretary to keep the guidelines up to date.

## **2.6 Continuous Disclosure**

Once the Market Disclosure Committee becomes aware of any information that meets the material information test, and does not fall within the exception to the principle of continuous disclosure, it must immediately release that information to the ASX. Information will not otherwise be released publicly if it is required to be disclosed via the ASX.

## **2.7 Periodic Disclosure**

AGL is required to make periodic disclosures to the market under ASX Listing Rule 4 and the Corporations Act.

Periodic disclosure is in addition to AGL’s continuous disclosure obligations. If any employee becomes aware of material information during the preparation of periodic disclosure documents they must refer the matter to the Business Unit Disclosure Officer who will immediately advise the Company Secretary and the Head of Investor Relations. The Market Disclosure Committee will determine whether the information should be immediately released to the ASX in accordance with this policy.

## **2.8 Dissemination of material information**

After the ASX has notified the Company Secretary that the company announcement made under 2.6 has been released to the market, AGL must promptly place a copy of the announcement on its website.

The Market Disclosure Committee may also approve additional methods for dissemination of an announcement to the market. This may include issuing media releases and/or sending emails to investors, media outlets and other interested parties.

## **2.9 Timing**

AGL must not release any information publicly that is required to be disclosed to the ASX until the Company Secretary has received formal notification of its release by the ASX. Where information is to be released in Sydney and simultaneously in another market, Business Unit Disclosure Officers must consult with the Company Secretary to determine how the ASX requirements may impact timing.

## **2.10 Review of communications for disclosure**

A member of the Market Disclosure Committee will review all proposed AGL public communications to avoid any unintended breaches of this policy or our obligations under the law. Such communications may include:

- media releases;
- speeches or presentations to be made by, or articles for publication written by, senior AGL managers;
- analyst, investor, or other market presentations;
- public tender documents;
- academic papers (including theses and papers for publications in specialist journals);
- annual reports and accounts;
- bidder's or target's statements;
- material to be published on AGL's website;
- submissions/evidence to public inquiries (including government or industry inquiries)
- prospectuses; and
- fact books or other corporate publications.

The Market Disclosure Committee will adopt a method for signifying their approval of communications for disclosure. Where appropriate, the relevant Business Unit Head must approve the material submitted as being accurate, fairly representative of AGL's position and commercially correct. That approval must be in place before information can be released.

## **2.11 Correcting and updating information**

The Market Disclosure Committee must notify the Board immediately if it is discovered that information disclosed to the market is materially incorrect due to subsequent information. The Market Disclosure Committee must send the Board the draft of the further announcement to be released to inform the market of the inaccuracy.

## **3. False Markets, Market Speculation and Rumours**

### **3.1 No comment policy for employees**

AGL's policy is to not respond to market speculation and rumours except in the circumstances set out in para 3.2 below.

### **3.2 Statements regarding market speculation or rumour**

The Market Disclosure Committee must make a statement in response to market speculation or rumours if:

- It considers AGL is obligated at that time to make a statement to the market about a particular matter (and it does not fall within the exception to the principle of continuous disclosure – see para 1.2); or
- AGL is required to respond to a formal request for information from the ASX.

A statement may also be required to prevent or correct a false market occurring in AGL's securities.

Statements in relation to market speculation or rumour are to be prepared by the Market Disclosure Committee and referred by the Managing Director to the Chairperson (or any other Director appointed in the Chairperson's absence) who will determine whether the statement should be considered by the Board.

### **3.3 Authorised spokespersons**

The Market Disclosure Committee must appoint authorised spokespersons from time to time. Information regarding AGL may only be disclosed to external parties by these authorised spokespersons. The authorised spokespersons are the Chairperson, Managing Director, Chief Financial Officer, Company Secretary, Head of Investor Relations and Head of Media.

Those persons may only clarify information that AGL has publicly released and must not comment on price-sensitive information that has not been released to the market. AGL will not expressly or implicitly give institutional investors or stockbroking analysts' earnings forecast guidance that has not been released to the market.

If other employees are asked to comment by an external investor, stockbroking analyst or the media in relation to any matter concerning AGL they must:

- Say that they are not authorised to speak on behalf of AGL; and
- Refer the investor or stockbroking analyst to Investor Relations or the media to Media Relations.

### **3.4 No embargo of information**

Information under embargo must not be disclosed to any third party.

## **4. Trading Halts**

AGL may, with the approval of the Board, ask the ASX to halt trading in its securities to manage disclosure issues, thereby facilitating a fair and informed market in AGL's securities.

No employee is authorised to initiate a request for a trading halt other than through the Market Disclosure Committee (which must obtain Board approval before making the request of the ASX).

## **B. FINANCIAL MARKET COMMUNICATIONS POLICY**

Throughout the year AGL regularly discloses information about its financial and operational performance to the market. Communication with the financial markets is the responsibility of the Managing Director, Chief Financial Officer and Head of Investor Relations.

As well as periodic disclosure of half year results in February and full year results in August, AGL also regularly interacts with the market through results briefings, market announcements and associated briefings, investor educational sessions, one-on-one meetings and briefings.

The contents of this policy must be adhered to by any AGL employee in communicating with the market or interacting externally with stockbroking analysts, market participants and other interested parties.

## **1. Briefings to Institutional Investors & Stockbroking Analysts**

### **1.1 Principle prohibiting selective disclosure**

AGL must not communicate any information to institutional investors, stockbroking analysts or any other third party unless it has first been disclosed to the market generally via the ASX.

### **1.2 Authorised spokespersons**

Employees authorised to speak to institutional investors or stockbroking analysts on behalf of AGL are:

- Chairperson
- Managing Director
- Chief Financial Officer
- Head of Investor Relations
- A delegate nominated by any of the above authorised spokespersons.

If any employee receives a request for comment from an external investor, analyst or media representative in relation to any matter they must advise they are not authorised to speak on behalf of AGL and refer the matter as follows:

- If the enquiry is from an investor or stockbroking analyst it is to be referred to the Head of Investor Relations.
- If the enquiry is from the media it is to be referred to the Head of Media.

### **1.3 Comments confined to previously disclosed information**

At any stockbroking analyst and institutional investor briefings, authorised spokespersons can only make comment on price sensitive material that has previously been disclosed to the market via the ASX.

AGL will not expressly or implicitly provide institutional investors or stockbroking analysts with any guidance on forecast earnings or financial performance that has not already been disclosed to the market via the ASX.

If any employee participating in a briefing of institutional investors and stockbroking analysts considers an inadvertent disclosure has occurred they must immediately refer the matter to the Company Secretary for consideration by the Market Disclosure Committee.

## **2. General Briefings**

### **2.1 AGL may hold general briefings**

AGL may hold general briefings with institutional investors and/or stockbroking analysts to discuss information that has been released to the market. For the purposes of this policy:

- Public speeches and presentations by the Managing Director or Chairperson are general briefings; and
- Any briefing that is not a general briefing is a one-on-one briefing.

Price-sensitive information that has not been released to the market must not be disclosed at general briefings.

### **2.2. Advising the ASX of general briefings**

AGL will advise the market in advance via the ASX and AGL's website of all general briefings. Where practical, AGL will webcast and/or teleconference general briefings.

### **2.3 Written material provided at general briefings**

Any written materials, including presentations, to be used at general briefings will be considered by the Market Disclosure Committee to determine whether information has previously been disclosed to the market. Where those materials contain information that has not previously been disclosed to the market the Company Secretary will first disclose that information to the market generally via the ASX and AGL's website. Following receipt of confirmation that the ASX has released the information to the market, it can be disclosed at the general briefing.

### **2.4 Answering questions**

If a question asked in a general briefing can only be answered by disclosing price sensitive information employees must:

- Decline to answer the question; or
- Take the question on notice and wait until AGL releases the information to the market through the ASX.

If an employee participating in a briefing thinks that something has been raised that might be price-sensitive information that has not been publicly released, they must immediately inform the Company Secretary or Head of Investor Relations for consideration by the Market Disclosure Committee.

## **3. One –On-One Briefings**

### **3.1 One-on-one briefings with institutional investors and stockbroking analysts**

AGL may hold one-on-one briefings with institutional investors and stockbroking analysts. At these briefings, AGL may give non-price sensitive background and technical information to help institutional investors and stockbroking analysts better understand AGL's business operations and activities.

For the purposes of this policy, a one-on-one briefing includes any briefing between AGL and an institutional investor or a stockbroking analyst that is not a general briefing.

Price-sensitive information that has not been released to the market must not be disclosed at one-on-one briefings.

### **3.2 Written material provided at one-on-one briefings**

Any written materials, including presentations, to be used at one-on-one briefings will be considered by a member of the Market Disclosure Committee to determine whether information has previously been disclosed to the market. Where those materials contain information that has not previously been disclosed to the market the Company Secretary will first disclose that information to the market generally via the ASX and AGL website. Following receipt of confirmation that the ASX has released the information to the market, it can be disclosed at the one-on-one briefing.

### **3.3 Disclosable information**

At one-on-one briefings AGL may provide background and previously disclosed information to assist institutional investors and stockbroking analysts in their understanding of AGL's business. If a question asked in a briefing can only be answered by disclosing price sensitive information, employees must decline to answer the question or take the question on notice.

### **3.4 Attendees and file notes**

More than one AGL representative must be present at any one-on-one briefing with institutional investors or stockbroking analysts. File notes must be made of all one-on-one briefings and kept for a reasonable period.

## **4. Analyst Reports and forecasts**

### **4.1 Review and use of analyst reports**

AGL recognises the important role that analysts play in assisting an efficient and fair market. However AGL does not endorse any external reports that contain commentary on AGL and does not use or incorporate analysts' reports in any corporate information on AGL.

In particular AGL will not comment on any profit forecasts that may be contained in an analyst's report.

### **4.2 Review of draft**

If any employee receives a draft analyst's report it must be immediately referred to the Head of Investor Relations.

### **4.3 Analysts' financial forecasts**

AGL regularly monitors analysts' financial forecasts which form the basis of a market consensus for AGL's projected financial performance. Where AGL's own expected performance materially varies from the analysts' consensus forecasts and expectations, the Market Disclosure Committee will assess whether a disclosure is required to ensure that the market is fully informed.

AGL will utilise an internally-compiled consensus estimate based on published analysts' reports as a basis for assessing its continuing disclosure obligations. AGL does not rely on consensus estimates generated by third party providers as there can be no assurance that a consistent approach has been adopted in aggregating this information.

AGL will make available the following information:

- Median consensus estimate for Underlying Net Profit after Tax;
- Forecast range (High and Low);
- Number of analysts' estimates; and
- Median consensus estimate for Dividends per Share.

Given the level of price sensitivity to earnings projections, AGL will only make comment to correct factual errors in relation to publicly issued information and company statements.

## **5. Pre-results Periods**

During the time between the end of the financial year or half year and the actual results release, AGL will not discuss financial performance, broker estimates and forecasts (and particularly any pre-result analysis), with stockbroking analysts, investors or the media, unless the information discussed has already been disclosed to the relevant exchange(s).

## **6. Compliance and Review**

### **6.1 Compliance**

Breaches of this policy may lead to disciplinary action being taken against the relevant employee including dismissal in serious cases.

### **6.2 Review**

The Market Disclosure Committee must review annually the Market Disclosure Policy and recommend to the Board what changes, if any, are required to ensure AGL continues to meet its disclosure obligations.