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Department of Energy and Mining

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Submitted via email: dem.consultation@sa.gov.au

Review of South Australia's National Energy Retail Law (Local Provisions) Regulations 2013

AGL Energy (AGL) welcomes the opportunity to respond to the Department of Energy and Mining (the Department) Review of South Australia's National Energy Retail Law (Local Provisions) Regulations 2013 (the SA NERL Regulations).

AGL is a leading integrated essential service provider, delivering 4.3 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. AGL has a long history of providing gas and electricity to South Australians, and we currently service approximately 500,000 customers in South Australia.¹ AGL is committed to providing our customers simple, fair, and accessible essential services as they decarbonise and electrify the way they live, work, and move.

AGL's response to the SA NERL Regulations Review is appended to this letter. Our feedback to the Review is based on our longstanding history as a provider of essential services to South Australians, as well as our extensive experience with the laws and regulations in the National Energy Customer Framework (NECF) and other jurisdictions. Broadly, AGL's feedback to the consultation is that:

- The SA NERL Regulations should seek to align closer to the NECF and reduce jurisdictional fragmentation by adopting the national 100Mw per annum consumption threshold for large customers, and by removing the SA derogations relating to minimum customer service standards, the exemption from planned interruption notifications and tariff structure requirements.
- AGL supports the removal of obsolete provisions from the SA NERL Regulations relating to Gas Retailer of Last Resort Procedures, Variation of the National Gas Rules billing and credit support and standing offer requirements under Section 22 of the NERL.
- AGL supports the retention of the other provisions in the SA NERL Regulations.

If you would like to discuss any aspect of AGL's submission, please contact Valeriya Kalpakidis at vkalpakidis@agl.com.au.

Yours sincerely,

A handwritten signature in black ink that reads 'Liam Jones'.

Liam Jones

Senior Manager Policy and Market Regulation

¹ [AGL ESG Data Centre FY24](#): 496,799 gas and electricity customers in South Australia as at 30 June 2024, including residential, small business, and commercial and industrial customers.



Appendix A – AGL Responses

Regulation 4 - Application of NERL (SA) to Cockburn

AGL supports DEM's proposal to retain the current arrangement with Cowell Electric Supply Pty Ltd for the town of Cockburn.

Regulation 5 – Consumption Threshold

The Department's Review of the SA NERL Regulations is an opportune time for South Australia to align consumer provisions closer to the NECF by discontinuing this derogation and applying the NECF's upper threshold of 100Mw per annum.

There are merits from both consumer and operational perspectives to be realised by harmonising the upper consumption threshold with the other states in the NECF jurisdiction, including NSW, QLD and the ACT and reducing fragmentation in the national framework. To accommodate for the SA derogation, retailers need to maintain separate processes for the treatment of large customers in SA, for example, in relation to billing, account management and connections. The difference in large customer thresholds between South Australia and the other NECF states can be a persistent cause of confusion for customers and frontline staff, which can lead to human error and a poor customer experience. AGL considers that aligning and streamlining these processes by adopting a uniform NECF can mitigate these concerns.

Further, an alignment to the 100MW p/a NECF threshold, could allow more business customers to access innovative product offerings and greater retail competition as they will not be constrained to the more pre-defined products developed for small consumers.

By reducing the threshold for large energy users in SA, more customers can access the benefits of the Australian Energy Market Commission's (AEMC) recent '*Unlocking CER benefits through flexible trading*' rule change. From 1 November 2026, large customers will be able to engage multiple energy service providers to manage their consumer energy resources (CER) separately from their inflexible loads. This would enable a wider pool of businesses in South Australia to better participate in wholesale energy and ancillary service markets and capture more value from their CER investments.

While the Department has expressed reservations that some South Australian business customers may lose small customer protections under the NERL/NERL, it has not put forward evidence to suggest that large commercial and industrial customers consuming over 100Mw in other NECF states are experiencing poorer outcomes than their SA counterparts consuming over 160Mw p/a. As one of Australia's largest energy retailers, AGL has a sizeable portfolio of large consumers, and in our experience, businesses consuming over 100MW p/a are generally large enterprises who are acutely aware of their high energy demands and how best to manage them. These types of businesses are not representative of the small customer profile intended to be covered by the small customer protections. By comparison, small to medium enterprises that do benefit from the small customer protections have an average consumption profile of approximately 15MWh per/annum, far below the regulatory threshold in NECF.

AGL acknowledges that these regulations must be remade or abandoned by 1 September 2025, a relatively short period of time to effect change of this scale. Industry welcomes further engagement with the Department to discuss the merits of discontinuing the derogation, the practical considerations of doing so and ways to further mitigate any adverse customer impacts such as through transitional arrangements, phased implementation or opt-in provisions for those businesses seeking to be reclassified to large consumers.



Regulation 5A — Natural gas equivalent

AGL supports the proposal to retain Regulation 5A to prescribe the gas blend produced by AGN as part of the HyP SA project as a natural gas equivalent. This approach is consistent with Australia's policy intention to extend the national gas regulatory framework to hydrogen and renewable gases. AGL notes that Standards Australia is currently updating AS 4564:202X Natural Gas Quality Specification to accommodate such changes.

Regulation 6 – Local Area Retailers

AGL will accept the renomination as the local area retailer for electricity in South Australia. AGL also welcomes other retailers who wish to be added as a local area retailer for electricity in South Australia in addition to AGL.

Regulation 6A — Tariff structures

The Department will be aware that the AEMC is in the final stages of its '*Accelerating smart meter deployment*' consultation. Among several other consumer safeguards, the AEMC's rule change seeks to address the impact of tariff reassignment to cost reflective pricing following a smart meter upgrade and contemplates the requirement for retailers to offer customers a flat tariff option post meter-exchange. While we understand that Regulation 6A in the SA NERL Regulations deals specifically with standing offer customers with an interval meter, it is AGL's strong recommendation that the Department omit this provision and adopt the AEMC's national approach.

AGL provided comprehensive feedback on the issue of tariff reassignment and the impact of cost reflective pricing as part of the AEMC's *Accelerating Smart Meter Deployment – Consumer Safeguards Directions Paper*.² We outlined the inherent challenges associated with mandating a flat tariff standing offer:

- **Higher costs** – flat tariffs may result in consumers paying more for their energy costs through:
 - i. Cross-subsidisation – greater disparity between a retailer's network costs exposure and corresponding retail tariffs may necessitate greater cross-subsidisation.
 - ii. Price premium – flat rate tariff structure may include a price premium to account for the added consistency and predictability.
- **Opportunity cost** – some consumers may fail to take advantage of cost-reflective pricing which might otherwise benefit them.
- **Price competitiveness** – standing offer prices are generally higher than competitive market offers so customers may be inadvertently worse off.
- **Could impede future adoption of cost-reflective pricing** – while there are arguments today against the need for additional network augmentation capital expenditure, this may change in the future as energy needs evolve. The measures we take today could have flow on effects into the future by delaying consumer behavioural changes and/or CER investment.³
- **Network asset growth** – without an incentive to shift load to off-peak periods, it is expected that consumers peak load will continue to grow and that SAPN will be required to augment their network leading to a long-term increase in network charges.

AGL continues to advocate for the need for holistic, end-to-end review of tariff design encompassing the relationship between both the network and retail tariff components. Should the Department wish to modify this Regulation, AGL strongly recommends that the requirement to offer an underlying network flat rate tariff for residential and small business customers also extends to SAPN and is reflected in SAPN's 2025-2030 Tariff

² AGL Energy, response to the [Directions Paper – Accelerating Smart Meter Deployment](#), 16 September 2024.

³ Ibid., p12.



Structure Statement. If the Department proposes that retailers absorb and socialise the impacts of the change in underlying network tariff, the outcome is likely to be an increase in costs for all customers and an adverse impact on consumers who wish to obtain competitive offers in the market.

On the matter of the 2020 *Smarter Homes* reforms, AGL encourages the Department to undertake a fulsome post-implementation review of the reforms to assess whether the changes have encouraged positive customer outcomes, not only in regard to tariffs, but also the metering arrangements and operation of the backstop mechanism.

Regulation 7 — Minimum customer service standards

It is AGL's preference that the Department omits Regulation 7 relating to minimum customer service standards from the SA NERL Regulations.

AGL has extensive experience with performance indicator reporting frameworks across the NEM and WA, including the AER's Performance Reporting Guidelines, the ESC's Compliance and Reporting Guidelines, various state concession schemes, green schemes and other certificate schemes and other jurisdictional requirements. Retailers' processes to procure and validate volumes of data are onerous, complex, lengthy and can be prone to human error. AGL considers this is an opportune time to harmonise reporting requirements in the NECF reporting framework and incorporate the customer service standards retailers have developed internally to manage compliance with the SA derogation to help improve performance across the NEM.

AGL disagrees with the statement that "...Removal of the requirements [could] lead retailers to reduce their efforts to respond to written and telephone enquiries in a timely manner in favour of digital communications," if these standards were removed from the SA NERL Regulations. It is in retailers' best interests to respond to or engage with their customers as soon as possible. As providers of an essential service, AGL strives to strike the right balance between resourcing our customer service centres to maximise efficiency and minimise costs-to-serve (which are ultimately worn by consumers) while providing an excellent customer service experience. AGL considers that the likely outcome is that removing these obligations will allow retailers to redirect resources and effort towards other customer support or regulatory reporting functions.

Regulation 8 — Extreme weather events

AGL supports the Department's proposal to retain Regulation 8 in its current form.

While heatwaves are the only extreme event currently legislated for, energy retailers, distributors and other energy market participants have put in place industry protocols and processes to manage other extreme events such as flooding and bushfires during which we provide additional protections and support to affected customers.

Regulation 9 — Re energisation after de energisation

AGL supports the Department's proposal to retain Regulation 9 in its current form. In our experience, the existing re-energisation standards for gas and electricity in SA remain appropriate.

The Department may wish to revisit the suitability of these timeframes for electricity following the completion of the AEMC's accelerated smart meter deployment program in 2030-2031 when SA has a universal penetration of smart meters.



Regulation 11 — Prepayment meter systems

AGL supports the Department's recommendation to remake Regulation 11 in the SA NERL Regulations if it wishes to retain prepayment meter systems in the state. However, AGL does not offer prepayment meter services to its customers and as such we have no specific comments on this proposal.

Regulation 12 — Price comparator

AGL agrees with the Department's assessment that the creation of an SA-specific price comparator site would be "costly, inefficient and duplicative". AGL supports the proposal to continue to adopt the AER's price comparator site, Energy Made Easy.

Regulation 14(b) and (d) – Notice of planned interruptions

AGL supports the Department's proposal to discontinue this derogation as we consider that the policy reasons for retaining SAPN's exemption at the time of the commencement of the NECF no longer apply. While we understand that this provision relates to urgent remediation/repair, there may be unexpected delays or unforeseen circumstances where the metering works take longer than anticipated and could negatively impact the customer, particularly where there may be life support equipment or sensitive load at the premises. It is appropriate to send planned interruption notifications to customers even when undertaking short remediation work. This is consistent with the regulatory requirements for retailers and distributors for the other states in the NECF.

Small claims compensation regime

AGL has responded to the Department's Small Claims Compensation Scheme consultation separately. Generally, AGL supports the creation of the small claims compensation regime in SA, however, we do not agree with retailers being the intermediary with respect to the application of payment to the customer's bill. The claim compensation process is initiated by the customer directly with SAPN and as such, it would not be appropriate, desirable or efficient for retailers to become involved at the last stage of the claim process when they have no knowledge, awareness or visibility of it up until this point. AGL recommends removing reference to 'retailers' in the draft National Energy Retail Law (Local Provisions) (Small Compensation Claims Regime) Amendment Regulations.