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Technology Security Policy Branch  
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Department of Home Affairs  
By Email: [dataretentionreview@homeaffairs.gov.au](mailto:dataretentionreview@homeaffairs.gov.au)

13 March 2025

Dear Sir or Madam,

### **Discussion Paper for the Data Retention Review**

AGL Energy (AGL) welcomes the opportunity to provide general feedback to the Department of Home Affairs (DoHA) in response to the Discussion Paper for the Data Retention Review (the Paper).

At AGL, we believe energy makes life better and are passionate about powering the way Australians live, move and work. Proudly Australian for more than 185 years, AGL supplies around 4.5 million <sup>1</sup> energy, telecommunications and Netflix customer services. 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 operates Australia's largest private electricity generation portfolio within the National Electricity Market, comprising coal and gas-fired generation, renewable energy sources such as wind, hydro and solar, batteries and other firming technology, and storage assets. We are building on our history as one of Australia's leading private investors in renewable energy to now lead the business of transition to a lower emissions, affordable and smart energy future in line with the goals of our Climate Transition Action Plan. We'll continue to innovate in energy and other essential services to enhance the way Australians live, and to help preserve the world around us for future generations.

As one of the largest providers of essential services in Australia, AGL welcomes and embraces the key role it will play in ensuring cyber security is instilled as a strategic national security capability and supporting Australia's ambition of becoming the 'most cyber secure nation' by 2030.

To date, AGL has been heavily involved in the development of the Australian Energy Sector Cyber Security Framework (AESCSF), to ensure that the energy sector's security posture is uplifted and prepared for the increasingly complex cyber threat landscape. In addition, AGL has been involved in the co-design process for the Security of Critical Infrastructure reforms including the amendment of the *Security of Critical Infrastructure Act 2018* (Cth) and associated rules.

The recent cyber security landscape - both in Australia and globally - has highlighted the scale of the challenge and reinforced the ongoing need to implement regulatory frameworks that protect Australia and Australians, now and into the future. The notable Optus and Medibank breaches are an unfortunate reminder of the pervasive threat of malicious cyber actors and the need to protect our customers and their communities. Central to this is the

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<sup>1</sup> Services to customers number is as at 31 December 2024.



abundance of data created and held by organisations, which if not managed appropriately, presents a significant cybersecurity risk.

In this regard, AGL is interested in providing its feedback and perspectives in relation to the unique data retention obligations facing energy retailers.

### Data Retention Obligations

AGL understands and agrees with the purpose of DoHA's Review, although we are concerned that some of the exclusions from the scope of the Review may have the effect of diminishing its overall effectiveness.

AGL's general feedback in relation to potential areas of improvement for its data retention obligations can be articulated as follows:

- a. **Range:** AGL currently complies with a number of Commonwealth data retention provisions, most notably the *Privacy Act 1988* (Cth) and the *Corporations Act 2001* (Cth). However, most significantly for energy retailers is the fact that much of our energy industry regulatory obligations (including record keeping and data retention) are enshrined or enabled through state legislation. For example, there are state specific energy regulations in Victorian and Western Australia. In addition, the National Energy Customer Framework comprising the *National Energy Retail Law*, *National Energy Retail Regulations* and the *National Energy Retail Rules* are adopted in the various jurisdictions through state legislation. In this regard, retailers are often navigating both Commonwealth and state data retention obligations in parallel. Thus, it is critical to consider the intersection and interaction between Commonwealth and state legislative or regulatory obligations as they relate to data retention – it is not possible to separate the two. It is AGL's experience that the discrete pieces of legislation themselves are less of an issue – it is the *cumulative effect* of the various obligations that increases complexity and which the Review should seek to address.
- b. **Non-legislative obligations:** further to the above, it is important to recognise that data retention obligations also arise from contractual relations between industry and government agencies such as for example Services Australia through the operation of the various energy concessions schemes and Centrepay. Thus, AGL argues it is important that these types of arrangements should also be included within the scope of the Review for the reasons set out above.
- c. **Compliance and enforcement considerations:** one of the main drivers for the retention of data is their role in supporting evidence of AGL's compliance with its broader regulatory obligations. AGL is from time-to-time required to produce business records on request from energy regulators and external dispute resolution schemes. As outlined above, these record keeping obligations sit within state-enabled frameworks as well as the various state-based limitation of actions legislation. It will be important to ensure alignment between the data retention obligations of organisations and their broader compliance and enforcement obligations.
- d. **Inconsistency:** the use of different obligations within the same instruments and across similar or related bodies of related legislation.
- e. **Vagueness:** the use of unclear obligations or those which require additional guidance to give meaning to obligated entities.
- f. **Construction:** the various approaches to construction of data retention provisions including but not limited to the use of prescriptive and principles-based obligations, the use of minimum or maximum retention timeframes and the extent to which external/supporting guidance is provided (or not).
- g. **The connection of data:** recognition that it is difficult to delete, purge or not retain certain data elements without impacting the overall integrity of data held by an organisation.



### Document Verification Service and Digital ID

As a matter of general practice, AGL seeks to minimise the use and/or retention of government identifiers wherever reasonably possible noting the sensitivity and risk involved with these data points. AGL recognises that DVS in particular, can play an important role as part of our onboarding processes to identify customers and manage identity and credit related risks. In relation to Digital ID, AGL is not aware of any specific regulatory impediments to its use, but in a more general sense, it may be necessary for the prevalence and uptake of Digital ID to increase before organisations make the necessary IT investments to incorporate it into their processes.

### Data Retention Principles

AGL is supportive of the data retention principles as drafted and does not have any specific feedback to offer in relation to their intended policy outcomes. Given the principles are intended to direct Commonwealth agencies, we argue that they should apply not only to the drafting or legislative or regulatory instruments but also extend to broader interactions between government and industry including for example contractual arrangements, Memorandums of Understanding and data sharing agreements.

AGL remains committed to and interested in working collaboratively and constructively with DoHA in relation to this proposal and welcomes any further opportunities for ongoing targeted consultation.

If you have any questions in relation to this submission, please contact Liam Jones at [ljones3@agl.com.au](mailto:ljones3@agl.com.au).

Yours sincerely,

A handwritten signature in black ink that reads 'Liam Jones' in a cursive, slightly slanted script.

Liam Jones  
Senior Manager Policy and Market Regulation