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Attention: Sophie Duxson

Senior Policy Officer

NSW Department of Climate Change, Energy, the Environment and Water

By Email: sophie.duxson@environment.nsw.gov.au

25 June 2025

Dear Sophie,

Remake of the NSW Electricity Supply (General) Regulation 2014

AGL Energy (**AGL**) welcomes the opportunity to provide feedback to the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) in the relation to the remake of the Electricity Supply (General) Regulation 2014 (NSW) (the **Regulations**).

AGL's responses to DCCEEW's proposed changes are contained within Appendix A attached herewith.

Additional Proposed Changes – Division 3

In addition to providing feedback in relation to DCCEEW's proposed amendments, AGL also proposes changes to Division 3 pertaining to remote re-energisations and de-energisations. AGL believes these changes are necessary considering the accelerated rollout of smart meters in NECF jurisdictions.

Regulation	AGL Feedback
10B	AGL notes this provision only applies to the "premises of a small customer". However, with the advent of Type 9 metering for street furniture (under the *Flexible Trading Arrangements* rule change), retailers should be permitted to undertake remote de-energisation of assets which are not "premises" within the meaning of the current definition (e.g. EV chargers). **AGL Recommendations** a. Replace the term "premises" with a neutral term to cater for the different range of scenarios where a remote de-energisation or re-energisation might occur; or b. Update the definition of "premises" in r. 10A to cater for these different scenarios. NB: these changes should be applied consistently to any reference to 'premises' in Division 3.
10C	As above.
10D	AGL notes this provision automatically assumes any failure to complete a re-energisation under clause 10B(2) is the retailer's 'fault' and enlivens the obligation to provide customer compensation. However, there are a range of scenarios where despite the retailer or metering provider's best efforts, a re-energisation cannot be completed safely as required under retailer Safety Management Plans (SMPs). These may include, for example, scenarios such as a load on the meter and may unreasonably require retailers to compensate the customer for a delay in energisation caused by the customer by not turning off their main switch.

	AGL Recommendation a. Amend clause 10B and/or 10D to include reference to the retailer and/or metering provider using their '*best endeavours*' to *attempt* re-energisation of the customer's premises within the specified timeframes.
10F	Under the current drafting of this clause, a retailer must, within one business day of a remote de-energisation occurring, provide the customer a written notice specifying a number of matters relating to the disconnection and reconnection. AGL argues that this requirement is impractical and does not support customers for the following reasons: • Customers already receive this same information *prior* to the disconnection through a disconnection warning notice (see r. 110 of the National Energy Retail Rules). Retailers (including AGL) often supplement this notice with additional customer contact in relation to the disconnection and how the customer can arrange reconnection. It is preferable that customers receive this information *before* the disconnection occurs rather than after the fact (see next point). • It is ineffective and unhelpful to send this information to customers *after* the disconnection has occurred. Customers who nominate to receive notices by post will not receive the information until well after the disconnection has occurred and instead, they are better off receiving it beforehand. Furthermore, AGL analysis indicates the overwhelming majority of customers engage their retailer to arrange re-energisation within the first 24 hours after the disconnection occurs which suggests this notice would be superfluous. • This notice adds unnecessary cost and complexity to the disconnection process with no added customer benefit for the reasons outlined above. **AGL Recommendations** AGL proposes that clause 10F either be: a. omitted altogether (the preferred option); or b. amended to remove the prescriptive requirement of sending the notice *after* the disconnection. For example, it could be amended to say: *"A retailer must, either prior to or no later than 1 business day after being informed by a metering provider that the remote de-energisation of the premises of a small customer has taken place, give the customer a written notice…"*. This would allow retailer efforts prior to disconnection (including the disconnection warning notice) to be recognised as complying with this obligation.

If you have any questions in relation to this submission, please contact Liam Jones on ljones3@agl.com.au.

About AGL

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 [1] million 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.

[1] Services to customers number as of 31 December 2024.

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.

Yours sincerely,

Liam Jones
Senior Manager Policy and Market Regulation

Appendix A – AGL's Feedback on DCCEEW's Proposed Amendments

Section	The Change	AGL Feedback
Part 1 Preliminary	Add bioenergy to the list of 'onsite renewable energy'.	AGL is **supportive** of the proposed change.
Part 3 Energy ombudsman scheme	Expand EWON's dispute resolution scope to enable it to cover issues where there is a contract for the provision of new energy services, including rooftop solar, household batteries, EV chargers, virtual power plants (VPPs), demand response programs and metering.	AGL is **supportive** of the proposed change in principle. AGL notes there has been considerable discussion about the role of external dispute resolution (EDR) schemes supporting future energy services through recent regulatory reform processes. These include the Commonwealth's *Better Energy Customer Experiences* process[2] or the Victorian *Consumer Energy Resources Consumer Protections Review*[3]. Consistent with our feedback to those consultations, AGL agrees that EWON may be a suitable specialist dispute resolution body for the resolution of CER disputes given their existing connection to (and ability to build upon) traditional retail energy disputes and the current absence of any viable alternative options. The advantages of EWON adopting this role would be: • Existing operations/expertise • Connection to some regulated traditional retail energy businesses • Existing jurisdiction over some solar PV issues such as feed-in credits, connection issues and metering • Cost of establishing a new body On the other hand, there are several pertinent considerations: • There is a very real question to as to the role of an EDR scheme with remit to enforce the full gambit of CER regulations including the Australian Consumer Law and other nationalised protection frameworks. This is relevant as governments and regulators grapple with the appropriate regulatory settings for future energy services. This function may still be performed by energy ombudsmen. • How EWON would go about seeking to build the necessary resourcing levels and technical capabilities to deal with the volume of actual and anticipated CER-related complaints. Given the specialist nature of these EDR services, it may be necessary to consider factors such as: • The role of a national EDR service for CER in light of the National CER Roadmap. This would avoid the

[2] Department of Climate Change, Energy, the Environment and Water (Cth), https://consult.dcceew.gov.au/better-energy-customer-experiences, March 2025.
[3] Department of Energy, Environment and Climate Action (Vic), https://engage.vic.gov.au/CER-consumer-protections-review, December 2024.

		complexity, cost and inefficiency of differentiated jurisdictional schemes. • Whether jurisdiction for CER should be limited to just one organisation (such as energy ombudsmen) or open to a number of alternative providers (subject to being able to meet the inherent requirements of an EDR scheme. While the complexities of navigating multiple EDR bodies is noted, this may be a necessary trade-off to ensure better overall customer outcomes. This risk could be minimised through the use of a single entry point to triage or allocate complaints to the most appropriate EDR provider. There are also potentially benefits in introducing competition to EDR providers.
Part 5 Social Programs for Energy Code	Amend regulation 21(4) to require that the Minister make reasonable endeavours and/or offers to consult with persons proposed to be subject to the Social Programs for Energy Code (the Code) before adopting or amending a Code, rather than making consultation mandatory.	AGL is **not supportive** of the proposed change. Any changes made to the Social Programs for Energy Code may have significant impacts on both NSW consumers as well as the energy retailers who deliver the Code. As such, AGL believes that consultation on Code changes should be transparent, open, accessible and consistent. Consultation is an integral part of the regulatory reform process and should be a **mandatory** requirement.
	Soften the wording of reg 22(1)(g) and (h) to elect that the Code 'may' specify an estimated cost to a distributor or retailer of compliance or the methodology used to reach that cost, removing it as an explicit requirement ('must specify').	AGL requires **further clarification** from NSW DCCEEW before it can consider supporting the proposed change. Noting the NSW Government's liability to reimburse direct costs associated with implementing NSW Energy Social Programs, AGL seeks clarification from NSW DCCEEW as to the approach or process it would take to determine these costs in the event it chooses not to specify the costs and/or methodology to determine costs. AGL also seeks clarification that this change would not interfere with retailer entitlement to dispute these costs in accordance with clause 23 of the Regulations.
	Caveat reg 22(h) such that the Codes can specify circumstances in which costs are no longer eligible to be reimbursed (that is, when a certain amount of time has elapsed, similar to statutes of limitations).	AGL understands the policy intent behind this change and is supportive of that purpose. However, AGL questions whether the current drafting of clause 22(h) could reasonably be inferred as imposing an indefinite reimbursement claim period - the "arrangements for the payment" could specify any relevant time periods. Should NSW DCCEEW proceed with this change, it would be absolutely critical that consultation occurs in relation to drafting

		of the new "circumstances in which costs are no longer eligible to be reimbursed".
	Amend regulation 22(3) to change the language from 'must not fail to comply' to 'must not contravene'.	AGL is **supportive** of the proposed change.
	Increase the maximum penalty in reg 22(3) from 100 units to 2,000 penalty units for a corporation and 500 for an individual, noting the Act specifies a maximum cap of 10,000 units.	AGL is **supportive** of the proposed change.
	Modify the penalty in reg 22(3) such that it is enforced through a Penalty Infringement Notice (PIN) under the existing enforcement officer framework consistent with s 187 of the Act.	AGL is **supportive** of the proposed change.
	Amend reg 27(3) to read that 'the Minister may require the reasonable costs of the audit to be paid by the retailer, exempt person or distributor'.	AGL is **supportive** of the proposed change. AGL also recommends that NSW DCCEEW provide guidance as to the process for determining or the circumstances in which audit costs would be covered by the NSW Government (or not).
	Amend reg 27(4) to change the maximum penalty for impersonating an auditor to 500 penalty units for a corporation and 50 for an individual.	AGL is **supportive** of the proposed change.
	Expand the provisions such that conducting or requiring an audit is made a power of the Minister and the Department, being clear that the Department can act independently and does not require ministerial approval.	AGL is **supportive** of the proposed change.
	Include a waiver of de-energisation and re-	AGL is **not supportive** of the proposed change.

	energisation fees for Energy Social Programs customers	While AGL is supportive of the policy intent of this change and the introduction of measures to protect vulnerable customers from unexpected costs, DCCEEW should be mindful of limiting jurisdictional derogations (which increase regulatory costs and complexity) as well as the regulatory implications of this change on network charges. Instead, AGL recommends that NSW should adopt a position consistent with the AEMC's recent final rule determination for the '*Improving consumer confidence in retail energy plans'* rule change[4]. There, the AEMC determined, following a comprehensive consultation process, that fees and charges (including de-energisation and re-energisation fees) should be prohibited for vulnerable customers excluding fees that are networks charges. AGL encourages NSW DCCEEW to refer to the analysis in Section 6.1.2 of the AEMC's rule determination[5] which sets out critical regulatory considerations for this change. In particular, AGL reiterates the impact of clause 6B.A3.1(a) of the *National Electricity Rules* (NER) and rule 508 of the *National Gas Rules* (NGR) which prohibit distribution networks from recovering charges from a retailer if a retailer is not permitted to recover network charges from the shared customer. NSW DCCEEW should be cognisant of the impacts of this change on the ability of NSW DNSPs and gas distributors to charge these regulated costs.
Part 6 Energy Savings Scheme	Amend reg 29 to remove the entities listed as direct suppliers	AGL is **supportive** of the proposed change.
	Amend reg 29B to add Solar Accreditation Australia, Clean Energy Council (CEC), Ausgrid, Endeavour Energy and Essential Energy to the list of relevant agencies that IPART can share information with.	AGL is **supportive** of the proposed change. We note that NSW did not make a PDRS rule change to amend clause 5.4(e), so BESS1 activity is effectively suspended from 1 July 2025 with the introduction of Federal Battery STCs. It is still helpful to amend clause 29B to extend the list of relevant entities to support future PDRS and ESS regulatory reform and activity development.
	Amend reg 42(6) to read: 'Subclauses (4) and (5) do not limit the grounds on which the Scheme Administrator may be	AGL is **supportive** of the proposed change.

[4] Australian Energy Market Commission, https://www.aemc.gov.au/sites/default/files/2025-06/ICCIREP%20-%20Final%20determination.pdf, June 2025.
[5] Ibid, p. 45.

	satisfied a person is not a fit and proper person.'	
	Amend reg 55 (or an appropriate clause in Div 3) to require that an audit report is provided with the scheme participants' annual statement.	AGL is **supportive** of the proposed change.
	Insert a new regulation stating that a purchase or supply of electricity is not a liable acquisition if the electricity is later acquired by AEMO.	AGL is **supportive** of the proposed change.
Part 7 Peak demand reduction scheme	Amend clause 59C to remove the entities listed as direct suppliers.	AGL is **supportive** of the proposed change.
	Amend 62N(6) of the regulations to 'Subclauses (4) and (5) do not limit the grounds on which the Scheme Administrator may be satisfied a person is not a fit and proper person.'	AGL is **supportive** of the proposed change.
	Amend clause 62ZB (or an appropriate clause in Div 2) to require that an audit report is provided with the scheme participants annual statement.	AGL is **supportive** of the proposed change.
Schedule 4 Penalty notice offences	Add offence from reg 22(3) of the Regulation to the list of Penalty Notice Offences, with an appropriate associated penalty for corporations and individuals. This means it will be enforced through a PIN under the existing enforcement officer framework consistent with s 187 of the Act.	AGL is **supportive** of the proposed change. AGL queries whether the offence from reg 27(4) should similarly be added to the list of Penalty Notice Offences.