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Australian Competition and Consumer Commission

By Email: unsolicitedsellingreview@accc.gov.au

31 July 2025

Dear Sir or Madam,

Unsolicited Selling and Lead Generation Review - Consultation

AGL Energy (**AGL**) welcomes the opportunity to provide feedback to the Australian Competition and Consumer Commission (**ACCC**) in relation to its consultation on 'Unsolicited Selling and Lead Generation' (the **Review**).

AGL is especially interested in providing feedback to the Review noting the Consumer Action Law Centre's (**CALC**) designated complaint identifies the unsolicited selling of consumer energy resources (CER) as a key area of concern. AGL is committed to providing customers with simple, fair, and accessible essential services. We share many of CALC's concerns regarding the potential for consumer harm arising from unsolicited selling, and we support measures aimed at improving customer outcomes and building confidence in the energy transition.

AGL is a market leader in the development of innovative products and services that enable consumers to make informed decisions on how and when to use their CER assets to optimise their energy load profile and better manage their energy costs. CER will continue to play a pivotal role supporting consumers, the community and the energy transition. For consumers, CER such as rooftop solar, batteries and electric vehicles (amongst many other current and emerging applications) can enable greater control of energy usage, leading to lower energy costs, whilst also promoting equitable access to clean energy, ensuring that the benefits of the energy transition are shared across all segments of society. The widespread adoption of CER contributes to lowering greenhouse gas emissions and supports Australia's goal of achieving net-zero emissions by 2050. It is important to foster and encourage CER's ongoing use and adoption through appropriate and adequate consumer protection settings.

Summary of AGL's Position

AGL believes there are important nuances in the discussion around unsolicited selling and lead generation. Both practices offer clear consumer benefits but can also pose risks of harm if not conducted in accordance with the spirit or letter of the law. AGL supports stronger consumer protections but urges caution against wholesale change, noting that existing legislation is largely sufficient to address the harms and risks identified through the consultation questions.

At a high level, AGL's position and recommendations to the ACCC are:

- AGL supports improved consumer protections to minimise harm and ensure positive outcomes.
- However, AGL does not believe there are gaps or deficiencies in the Australian Consumer Law (ACL) that require legislative intervention.
- Instead, AGL believes the underlying cause of CALC's concerns relating to CER is the *application* and *enforcement* of the current framework and protections:
 - There is an unlevel playing field – there are varying degrees of conduct and compliance with consumer protections frameworks across the energy sector in relation to CER.
 - There are inconsistent interpretations of the rules – both by participant and by place/market.



- There is an apparent lack of enforcement and compliance action to uphold the rules – especially against smaller operators.
- To remedy the above, AGL recommends the ACCC consider:
 - a. Increased monitoring and enforcement targeting high-risk unsolicited selling practices.
 - b. Undertaking a review of guidance material for businesses and uplifting, amplifying and publicising any such materials.
 - c. Mandatory independent dispute resolution for future energy services and unsolicited selling agreements, ensuring consumers are informed of their rights to access these services.
 - d. Deferring to energy-specific protections through ongoing Commonwealth and Victorian regulatory reviews, which recognise the unique challenges of the energy transition.
 - e. Harmonising the ACL's unsolicited selling provisions with industry codes (such as the NETCC), state-based regulations and/or energy efficiency schemes to improve consistency and consumer outcomes.

AGL's responses to the ACCC's consultation questions are contained within Appendix A attached herewith.

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

Yours sincerely,

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

Liam Jones
Senior Manager Policy and Market Regulation



Appendix A – AGL’s Responses to Consultation Questions

Part 2 - The consumer experience of unsolicited selling

1. *Have you experienced unsolicited selling as a consumer? If so, what was the product, the channel it was marketed through, and your experience overall?*

AGL refers to its response to Question 6 and 7 below which outline the typical goods and services subject to unsolicited selling and the channels by which they are ordinarily sold in the energy sector. As will be discussed throughout this submission, unsolicited selling is not a black and white issue – there are a range of ‘shades’ based on the product or service being sold, the channel by which it is being marketed and the organisation or salesperson involved. Any decision to uplift or modify consumer protection settings must consider the range of customer experiences that differ across these various factors.

2. *What benefits does unsolicited selling offer to consumers?*

AGL agrees there are potential consumer benefits arising from unsolicited selling. These may include:

- a. **Access to lower cost products and services** – the ACCC’s National Electricity Market Report December 2024 concludes that “customers who do not switch pay more”¹ and that “more than 80 per cent of Australian households in the National Electricity Network (NEM) could move to a cheaper electricity plan if they shopped around or contacted their electricity provider”². This occurs even though energy retailers regularly provide information about the availability of better offers on consumers’ bills. As such, consumers may benefit from efforts by energy retailers to promote competition through the availability of cheaper energy offers including those marketed through unsolicited selling (where permitted).
- b. **Accessibility** – certain customer groups may benefit from face-to-face interactions through unsolicited selling which can support better understanding of a product or service. This may be particularly pertinent for complex or technical CER/DER goods and services.
- c. **Awareness** – consumers may benefit from receiving information about the availability of relevant government grants, incentives and rebates, which is especially relevant in the future energy services sector as these generally often have limited community awareness. However, it is essential that information being provided to consumers is accurate, relevant and timely as unscrupulous providers could seek to utilise these schemes for improper gain. This is critical irrespective of whether unsolicited selling is utilised (or not).

3. *What harms and detriments can unsolicited selling cause to consumers? Are these harms economy-wide or specific to certain industries or certain goods and services?*

Despite the clear benefits outlined in response to Question 2 above, AGL acknowledges that unsolicited selling also has the potential to cause consumer harm at both the economy-wide and individual levels. For example, as noted in AGL’s response³ to the Victorian Government’s Regulatory Impact Statement on ‘Telemarketing and Doorknocking Ban Under the Victorian Energy Upgrades (VEU) Program’⁴, inappropriate and unscrupulous sales practices were deemed to undermine trust in key initiatives such as the VEU.

¹ Australian Competition and Consumer Commission (ACCC), *National Electricity Market Monitoring Report – December 2024*, ACCC, Canberra, 2024, <https://www.accc.gov.au/system/files/accc-national-electricity-market-december-2024-report.pdf>, p. 3.

² ACCC, *No reward for being loyal: Australians urged to shop around for a better value electricity plan*, ACCC, Canberra, 30 December 2024, <https://www.accc.gov.au/media-release/no-reward-for-being-loyal-australians-urged-to-shop-around-for-a-better-value-electricity-plan>.

³ AGL Energy, *Response to Regulatory Impact Statement on Banning Telemarketing under the VEU Program*, AGL, 19 March 2024, <https://www.agl.com.au/content/dam/agl-thehub/240319-agl-response-to-regulatory-impact-statement-on-banning-telemarketing-under-the-veu-program.pdf>.

⁴ Victorian Government, *Marketing under the Victorian Energy Upgrades Program*, Engage Victoria, Department of Energy, Environment and Climate Action, accessed 18 July 2025, <https://engage.vic.gov.au/marketing-under-the-victorian-energy-upgrades-program>.



This erosion of trust may affect the ability to meet climate, decarbonisation, and electrification goals, as well as impact consumers' energy costs. At the individual level, inappropriate marketing practices pose risks including nuisance, invasion of privacy, misleading information, pressure tactics, and exposure to scams and fraud.

4. Are consumers experiencing disadvantage or vulnerability more likely to purchase goods or services through unsolicited sales, and do they face unique harms? If so, how?

AGL does not have evidence to suggest that consumers experiencing disadvantage or vulnerability are more likely to purchase goods or services through unsolicited selling. Nonetheless, we acknowledge and agree that the negative customer outcomes or harms associated with unsavoury unsolicited selling practices are heightened for these consumers.

5. Are unsolicited sales cooling-off periods used by consumers? If so, what proportion of consumers exercise a cooling-off right?

AGL does not have a unique perspective to add in relation to the prevalence or use of cooling-off periods.

Part 3 - Unsolicited selling structure and practices

6. What are the main goods and services sold through unsolicited selling?

From the perspective of the Australian retail energy market, AGL is aware of unsolicited selling across both 'traditional' and 'future' energy services. Traditional energy services are those "characterised by a one-sided supply of energy from suppliers to consumers' premises"⁵. However, as Australia continues its energy transition journey to achieve net zero by 2050, and the availability and uptake of smart consumer energy resources grows, the way that Australian households interact with the energy market will continue to evolve and our homes will become smarter, more connected and more autonomous. This has given rise to the concept of future energy services relating to CER or distributed energy resources (DER), including solar panels, batteries, virtual power plants (VPPs) and electrification products amongst others. As previously noted, unsolicited selling may serve a valuable purpose when it introduces customers to new products and services of which they were not previously aware. The energy transition is expected to generate numerous such opportunities. To facilitate this transition, it will be essential to educate customers about the availability of emerging CER products and the benefits available to them.

7. What are the main sales channels for unsolicited selling? Are these changing over time?

In the context of the energy sector, the range of sales channels utilised for unsolicited selling differ between traditional and future energy services as well as the type of customer (residential/small business). Channels utilised in the energy sector include:

- Kiosks (including shopping centres)
- Telephone
- Door-to-door (also known as doorknocking)
- Letter drops or EDM campaigns
- Digital/online targeted ads
- Referral programs

⁵ Australian Energy Regulator (AER), *Review of Consumer Protections for Future Energy Services – Final Advice*, AER, Canberra, November 2023, <https://www.aer.gov.au/system/files/2023-12/AER%20-%20Review%20of%20consumer%20protections%20for%20future%20energy%20services%20-%20Final%20advice%20-%20November%202023.pdf>, p.8.



The use or popularity of these channels has also shifted over time, predominantly in response to energy-specific regulatory reforms (e.g. banning telemarketing and doorknocking in the Victorian Energy Upgrades program) or through shifts in consumer behaviours and preferences (e.g. reluctance to answer phone calls from unknown or unidentified callers). In general, AGL is observing a shift to digital or online channels over more traditional channels (in-person or telephone), though these traditional channels still have a role to play. Digital channels provide a convenient and efficient means to contact customers who might be interested in particular products and make them aware of their existence. Significantly, there is arguably less risk of harm in these new digital channels as there is less pressure to purchase as consumers have more agency in whether to engage with them (or not). Thus digital channels can amplify the benefits of unsolicited selling, whilst simultaneously reducing the risks. This is an important consideration in considering the level of protections required – AGL does not believe that these types of channels warrant regulatory intervention at this time.

8. Have you seen an increase/decrease in the use of unsolicited selling practices? If so, what do you consider are the causes?

AGL has observed both increases and decreases in unsolicited selling practices for different channels and for different products/services across the energy sector. There have been decreases in the use of outbound telephone sales as consumers are less likely to accept phone calls from unknown or unidentified callers, especially in the backdrop of scam callers. There have also been decreases in the use of both telemarketing and doorknocking as a result of regulatory intervention through changes to state-specific energy efficiency programs such as the Victorian Energy Upgrades Program⁶ or New South Wales Energy Savings Scheme (ESS) and Peak Demand Reduction Scheme (PDRS)⁷ which have both banned the practices under their respective schemes. On the other hand, we anticipate increases in unsolicited selling through practices such as digital channels and shopping centre kiosks as a result of the highly competitive operating environment and opportunities that those channels present to engage with consumers.

9. Is demographic information used to target specific cohorts of consumers for unsolicited selling? If so, how?

Yes – the proliferation and utilisation of data and analytics can improve consumer outcomes by offering targeted, meaningful products and services. Data elements such as demographics, energy consumption or profile and online search history potentially allows for more targeted matching of customer needs with available products and services, ensuring greater alignment in outcomes. In the energy sector, this is relevant for both traditional and future energy services. As highlighted in response to Question 6 above, the rate and pace of change involved with the energy transition means the need to match these new products and services with customers who will be interested in them and benefit from them is paramount.

10. What is the current remuneration structure for salespeople that rely on unsolicited selling? Does this differ between sales channels?

AGL is not aware of any additional salesperson remuneration structures beyond those specified in the Paper.

11. Does commission-based remuneration affect outcomes for consumers?

The use of commission-based remuneration in and of itself does not mean that consumers will experience negative outcomes. Commission-based remuneration can still coexist with positive, mutually beneficial outcomes for the consumer and the salesperson. Instead, the determinant of whether consumer outcomes will be impacted are the associated 'checks and balances' and level of quality and assurance controls to mitigate against any risks of harm or wrongdoing. This includes, amongst other things measures such as call

⁶ Victorian Government, *Telemarketing and Door Knocking under the Victorian Energy Upgrades Program*, Department of Energy, Environment and Climate Action, accessed 18 July 2025, <https://www.energy.vic.gov.au/victorian-energy-upgrades/about/telemarketing-and-door-knocking-under-the-veu-program>.

⁷ https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/energy-security-safeguard/energy-savings-scheme?utm_source=newsletter&utm_medium=email&utm_campaign=2025-ESS-upcoming-rule-change.



monitoring, post sales validation, agent training, organisational compliance culture and awareness, and diligent partner sourcing/procurement practices.

12. What are the current training requirements for salespeople, including in respect of the ACL?

AGL has rigorous training programs in place for all its customer-facing personnel, which incorporates, amongst other things, compliance with the ACL and relevant energy legislation. This spans across both initial induction training and ongoing refresher training. Furthermore, it is bolstered by a comprehensive scripting and quality and assurance program that regularly monitors agent interactions for adherence to business processes. Similar training standards are also required of AGL's third party retail sales partners. These are compelled through contractual requirements necessitating amongst other things, ACL training, compliance with the ACL, AGL's approval of training materials and scripting and adherence to an agreed compliance regime. More broadly, there are training requirements incorporated into energy regulations such as for example the New Energy Tech Consumer Code (NETCC) which contains both legal and training requirements encompassing the ACL⁸.

13. What role does BNPL finance have in unsolicited selling?

There are both potential benefits and negatives in the use of BNPL or non-traditional finance services. AGL contends these factors apply to both solicited and unsolicited sales. While BNPL and non-traditional financial services may be offered in parallel with unsolicited selling, they are subject to their own separate consumer protection frameworks. Prior to the recent regulatory changes affecting BNPL services⁹ - including the introduction of responsible lending obligations - there were arguably valid concerns regarding the absence of adequate oversight for certain products and services. However, these reforms are expected to mitigate those risks.

14. What is the relationship, if any, between the availability of government subsidies and incentives, and the use of unsolicited sales practices?

Unsolicited selling can benefit consumers by increasing their awareness of, and access to, government subsidies and incentives. These programs are often poorly understood or not widely known within the community and may involve complex rules and eligibility criteria. As such, AGL reiterates its position in Questions 6, 7 and 9 above – that is, unsolicited selling can help raise awareness of these programs, inform and educate customers on how to utilise them, and promote the products and services available under the schemes. When coupled with digital channels, which allow for greater personalisation and tailored offerings, organisations can even better inform customers more efficiently of the government schemes that may be relevant to them. As a corollary to the harms discussed in response to Question 3 above, the uptake and utilisation of these schemes can deliver both economy-wide and individual benefits. However, these benefits must be weighed against potential drawbacks, including the risk of incorrect or misleading advice about available incentives, lack of transparency in pricing or quoting relative to the incentive, and insufficient information on how to apply for the incentive.

⁸ New Energy Tech Consumer Code (NETCC), *New Energy Tech Consumer Code*, NETCC, accessed 18 July 2025, <https://assets.newenergytech.org.au/uploads/New-Energy-Tech-Consumer-Code.pdf>.

⁹ Australian Securities and Investments Commission, *ASIC Alerts Buy Now Pay Later Providers to Apply for a Licence under New Laws*, 17 January 2025, <https://www.asic.gov.au/about-asic/news-centre/news-items/asic-alerts-buy-now-pay-later-providers-to-apply-for-a-licence-under-new-laws/>.



Part 4 - The role of lead generation

15. How frequently is lead generation used for telemarketing to consumers?

AGL recognises that lead generation is commonly utilised to connect consumers with products and services that may be of interest to their needs. Where AGL undertakes lead generation, we ensure this occurs with clear customer consent that the provision of contact information is for the purposes of a return call from AGL's sales team. This level of transparency is important to ensure that customers understand the purpose for which their personal information will be utilised.

16. How frequently is lead generation used for door-to-door or other in-person sales to consumers?

AGL does not currently engage in door-to-door sales and as such, does not have any insights into the prevalence or use of lead generation for door-to-door sales. For the avoidance of any doubt, lead generation may occur via in-person channels, but does not result in in-person follow-up sales contact.

17. Can you provide any examples of 'good practice' connected with consumer lead generation?

AGL refers to its response to Question 15 above and reiterates the importance of ensuring a clearly articulated purpose, a clear call to action, clear consent and proper agent training and quality assurance.

18. Can you provide any examples of concerning consumer lead generation practices?

AGL notes the following types of conduct would be concerning and undermine consumer trust – hidden or no T&Cs, transferring of information between organisations/entities without proper consent, excessive personal information captured, data handling, privacy/cyber risk.

19. Can you provide any lead generation examples where it may be unclear whether the consumer has provided consent for their details to be used for lead generation or other sales or marketing purposes?

One type of conduct that AGL is aware of is providing customer details to download an information sheet, but this triggers a follow-up contact from a sales representative.

20. Can you provide any lead generation examples where it may be unclear to the consumer that their details might be sold or otherwise shared as leads with other businesses or organisations?

AGL is not aware of any specific examples of this type of conduct, but instead refers to its response to Q18 above as examples of the type of conduct that may give rise to this type of conduct.

Part 5 - The legislative framework for unsolicited selling and lead generation

21. Do you consider unsolicited selling and lead generation to be adequately covered by the ACL? Please provide details.

AGL believes that the ACL has sufficient minimum protections for consumers, however, there may be benefit for the industry and consumers if there was a more dedicated focus on the application and enforcement of those provisions including in respect of *all* industry participants. As has been highlighted within AGL's response, the main consumer risks for unsolicited selling pertains to conduct that arguably contravenes the existing *general* ACL protections – largely misleading and deceptive conduct, false or misleading misrepresentations, unconscionable conduct and unfair contract terms. That is to say, there does not appear to be anything specific or unique to unsolicited selling that necessitates legislative change.



In particular, AGL is concerned by the following conduct that occurs in relation to future energy services:

- a. As the CALC designated complaint and associated media coverage¹⁰ indicates, there are instances of conduct resulting in consumer harm. While AGL makes no allegations against the specific providers in the aforementioned article, we are nonetheless concerned by the risk that some market participants are contravening the above provisions of the ACL. This conduct has negative implications for the consumers it harms, the broader industry which gets tarnished by the same conduct and the overarching objectives that the energy transition is seeking to achieve.
- b. Given the range of different participants in the future energy services market, including new entrants, there is a high-level of competition. While AGL is supportive of competition and its associated benefits, we are concerned that there is inconsistent interpretation of the rules. This occurs across market participants and also the markets themselves (location, product and service).
- c. The apparent lack of proactive compliance and enforcement of the rules to address both (a) and (b) above. To support competition and positive customer outcomes, AGL strongly advocates for a level playing field, including regulatory compliance and enforcement applicable to all operators in the market.

22. Are there any harmful practices specific to unsolicited selling and/or lead generation that are not sufficiently addressed by the ACL, including the current unsolicited consumer agreement provisions? If so, please provide details, including any changes you would recommend to the current framework.

AGL believes that consumer protections and consumer outcomes could be bolstered through a number of measures – including ACL and non-ACL measures. To bolster consumer protections and offset the risks identified in Q21 above, AGL recommends the following measures:

- a. Update the ACCC's **Compliance and Enforcement Priorities** and focus on increased monitoring, enforcement and compliance action against the types of high-risk unsolicited selling practices that AGL has identified in response to Q21 herein and which was the subject of CALC's designated complaint.
- b. That the ACCC undertake a review of any **industry guidance materials** relating to unsolicited selling (including the 'Sales Practices: A Guide for Businesses and Legal Practitioners'¹¹) and provide updated guidance taking into account the issues and conduct in CALC's designated complaint. The ACCC should ensure the guidance is adequately publicised across relevant industries to maximise awareness.
- c. Consistent with AGL's position in other regulatory reform consultations, we support expanded and mandatory **independent dispute resolution services** for future energy services – this will allow for expeditious, cost-effective and impartial resolution of any consumer issues that arise. Furthermore, this approach could be expanded to *all* forms of unsolicited selling whereby it is a mandatory condition of any unsolicited selling agreement that the seller must be a member of an accredited external dispute resolution scheme and must clearly inform the consumer of their entitlement to access that service.
- d. AGL also believes the **energy regulation framework** could provide more specific protections for energy/CER/DER scenarios (over and above the ACL) – this is already the focus of the

¹⁰ Frank Chung, "Aussie Screwed by 'Horrendous' Practice to Bring Bills Down," *news.com.au*, 30 July 2025, <https://www.news.com.au/finance/money/costs/aussie-screwed-by-horrendous-practice-to-bring-bills-down/news-story/ae26a1db7563ea058326b49e2fbbd43c>.
¹¹ ACCC, *Sales Practices: A Guide for Businesses and Legal Practitioners*, Commonwealth of Australia, Canberra, 6 November 2024, <https://www.accc.gov.au/system/files/sales-practices-guide-businesses-legal-practitioners.pdf>.



Commonwealth government's Better Energy Consumer Experiences¹² and Victorian CER Protections¹³ Reviews. Given the likelihood of regulatory reform through those processes (which are already underway), there is benefit in allowing them to run their course and provide a targeted, energy specific response to the unique challenges of the energy transition and our sector.

- e. Finally, and in the alternative, there may be benefit in aligning and **harmonising** the ACL with the approach taken in industry codes such as the NETCC, state government energy efficiency schemes, such as the VEU or ESS/PDRS or the Victorian Energy Retail Code of Practice. These provide for specific requirements, limitations or prohibitions on types of unsolicited selling that are commensurate to the underlying risk of consumer harm.

¹² Department of Climate Change, Energy, Environment and Water, *Better Energy Customer Experiences*, Australian Government, accessed 18 July 2025, <https://consult.dccceew.gov.au/better-energy-customer-experiences>.

¹³ DEECA, *Consumer Energy Resources (CER) Consumer Protections Review*, Engage Victoria, Victorian Government, accessed 31 July 2025, <https://engage.vic.gov.au/CER-consumer-protections-review>.