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NSW Electricity Retail Tariff Reform

AGL Energy (AGL) welcomes the opportunity to respond to the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) Electricity Retail Tariff Reform Consultation Paper, dated 12 December 2025.

AGL is a vocal proponent of retail pricing and tariff reforms which promote fair and equitable long-term outcomes for consumers, and which are reflective of their energy needs and objectives. AGL acknowledges DCCEEW's commitments made under its Consumer Energy Strategy[1] to modernise retail energy market settings and AGL generally supports DCCEEW's ambitions. We have provided constructive feedback in response to the proposals in the Electricity Tariff Reform Consultation Paper to help industry operationalise these reforms.

Broadly, AGL's position is that:

- Tariff reform should be pursued holistically across both the network and retail components and should seek to minimise misalignment between these underlying cost-recovery methodologies. DCCEEW's prohibition on reassignment to a demand tariff (without explicit informed consent) should extend to both the retail **and** network demand tariff components, or, alternatively, permit retailers to reassign customers with a network demand tariff to another cost retail reflective tariff (to the extent permitted under the NERL/NERR).
- The proposed prohibition on demand tariff reassignment as well as the flat standing offer tariff requirement should focus on residential customers. For business customers, demand and cost-reflective tariffs remain appropriate, ensuring this customer cohort contribute fairly and equitably to the network costs associated with their higher, more variable consumption.
- The AEMC has already established a comprehensive regulatory framework to support its broader prohibition on retail tariff reassignment post smart meter upgrade, including notification and notice requirements, application and scope of the rule. DCCEEW should look towards closely aligning its proposed prohibition with the existing requirements.

AGL reiterates its longstanding policy position that meaningful change, effective consumer safeguards and strong pricing outcomes can only be realised through holistic tariff reform to address the root cause of the cost change which arises following network tariff reassignment to a cost-reflective network. It is a well-recognised issue that misalignment between retail and network tariffs can lead to inefficient price signals, bill volatility, and higher energy costs in the longer-term by forcing retailers to absorb and socialise the

[1] Consumer Energy Strategy | NSW Climate and Energy Action

increasing costs across all customers (cross subsidisation). Ultimately, this misalignment between network and retail tariffs will need to be recovered by retailers in the medium to long-term and may have implications for the future Default Market Offer methodology.

In progressing these reforms, NSW DCCEEW should be mindful of perpetuating the unintended consequence that persistent tariff misalignment between network and retail components may gradually increase flat rate prices for all NSW customers on non-cost reflective pricing.

Accelerating smart meter deployment rule change

While AGL understands that DCCEEW's commitment to prohibit retail demand tariff reassignment predates the AEMC's 'Accelerating Smart Meter Deployment Final Rule determination (the ASMD Final Rule), the proposed prohibition subject to this consultation is duplicative and unnecessary as the ASMD catch-all requirements cover all retail tariff reassignment post-smart meter exchange. Notwithstanding, if these reforms are progressed (which we argue is not required), then they should mirror the ASMD Final Rule requirements to the extent possible.

In addition to the prohibition on tariff reassignment without explicit informed consent, the ASMD Final Rule creates a number of supplementary retailer obligations to give effect to the prohibition, including:

- Rule 12 of the National Energy Retail Rules (NERR): Definition of 'Explicit Informed Consent Period';
- Rule 13: Notification and notice requirements;
- Rule 14: Notification following the 'Explicit Informed Consent Period';
- Rule 15: Defines a 'flat tariff standing offer'; and
- Rule 16: Specifies the scope and application, including circumstances in which the prohibition does not apply.

AGL's recommendation for the remake of the National Energy Retail Law (Adoption) Regulation is to leverage these existing ASMD provisions by inserting the below NSW derogation immediately following subrule 13(3) of the NERR:

> *A retailer may only vary the customer's tariff structure* ***to a demand tariff*** *during the Explicit Informed Consent Period if it obtains the customer's explicit informed consent following notification under subrule (2).*

By closely aligning to the existing NERR requirements, DCCEEW can avoid a substantial redesign of the tariff reassignment and consent framework established under the ASMD Final Rule. This approach will also allow retailers to leverage their newly built systems, processes, and functions to comply with both the ASMD prohibition on tariff reassignment without EIC and the specific DCCEEW prohibition on demand tariff reassignment without EIC.

Prohibition on assignment of customers to demand tariffs

Question 1: Should the prohibition on assignment of customers to demand tariffs without explicit informed consent be limited to a certain time period, or established as an ongoing prohibition?

In order for these reforms to operate effectively and as intended, there need to be well-defined parameters which specify when the prohibition is enlivened under the rules, and when it lapses. To minimise regulatory fragmentation across the National Energy Customer Framework (NECF) and promote regulatory consistency during the accelerated smart meter deployment program, AGL supports maintaining the prohibition for two years following a customer's smart meter upgrade. This is consistent with the current design and requirements of the ASMD prohibition on retail tariff reassignment without explicit, informed consent.

DCCEEW could consider the below options for a timebound prohibition:

> **Option 1 (AGL's preferred approach):** The prohibition on demand retail tariff reassignment would be time-limited with reference to the smart meter upgrade and consistent with the ASMD Final Rule which defines the 'Explicit Informed Consent Period' as the two-year period immediately following the replacement of a legacy meter at a small customer's premises.
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> **Option 2:** DCCEEW's prohibition would come into effect at the time the National Energy Retail Law (Adoption) Regulation is remade on 1 September 2026 and last for two years until 1 September 2028. This option may be appropriate where DCCEEW anticipates substantive tariff reforms and significant market developments over this period that would ultimately render a prohibition on demand retail tariff reassignment unnecessary post-2028.

Question 2: Are other consumer safeguards around tariff re-assignment required, such as:

Prohibiting the seeking of customer explicit informed consent for any tariff variation for a specified timeframe following the installation of a smart meter?

AGL understands this to mean that retailers would be prohibited from even seeking NSW customers' consent for any tariff reassignment post-meter exchange. AGL does not support this proposal as it conflicts with, rather than complements, the general policy direction set by the ASMD Final Rule and further erodes customer agency and autonomy to make decisions that meet their energy needs and objectives.

AGL considers that the existing safeguards established in the ASMD Final Rule, and the overarching requirement to capture explicit, informed consent for any tariff reassignment sufficiently address the risk of customer confusion or poor billing outcomes.

We are concerned that the proposal may conflict with, and potentially delay, customer uptake of the Solar Sharer Offer (SSO). The SSO is intended to support increased deployment of smart meters across the NECF and is expected to drive customers with legacy meters to request a smart meter upgrade to access the SSO. Under this version of the prohibition, retailers would be unable to vary a customer's retail tariff, including where the variation is made at the customer's request and prevent those customers accessing the offer for the duration of the prohibition.

Due to the varied nature of energy consumption across consumers, there are many different outcomes and permutations for customers on cost-reflective tariffs. AGL acknowledges that some customers will seek to remain on a flat tariff, and it is their right to do so. However, the proposal to prohibit seeking EIC for any retail tariff reassignment ignores the reality that many customers *are* better off on cost-reflective tariff. By removing retailers' ability to seek EIC and inform customers of the requirements under Clause 13(2) of the NERR[2], the new reforms could adversely impact customers' access to important information and as well as their ability to make informed decisions suited to their individual circumstances. A portion of customers would ultimately be worse off for not having changed to a cost-reflective and retailers would have limited recourse in this instance.

[2] *As part of the ASMD process for seeking customer EIC for retail tariff reassignment, retailers must provide detailed information to help inform the customer's decision-making, including: the customer's previous tariff and charges, the proposed new tariff and prices, an estimate of what the customer's historical bill for the preceding 12 months would be under the new proposed tariff, and additional information on how to understand, monitor and manage electricity usage.*

Any other consumer safeguards?

Question 3: Is there anything else the NSW Government should consider in implementing this prohibition on demand tariff assignment?

Residential vs Small and business customers

AGL strongly recommends that the prohibition on demand tariff assignment be limited to residential customers and should not extend to business customers.

Demand tariffs were designed primarily with medium-to-large commercial and industrial users with high and variable electricity loads in mind. It is fair and reasonable that business customers pay prices that reflect the actual costs they impose on the network (peak demand) rather than being cross subsidised by smaller users with flatter load profiles.

By providing clear price signals, demand tariffs enable businesses to manage peak demand and make more efficient energy choices and investments. Business customers can actively manage their demand charges while benefiting from the predictability that well-managed demand-based pricing can provide as they are generally better positioned to adjust their loads in response to these signals.

Unknown energy consumers

NSW DCCEEW will need to consider that there are certain circumstances under which demand tariff ‘assignment’ or ‘reassignment’ without EIC may be unavoidable or occur inadvertently. Specifically, it is unclear from the Consultation Paper whether ‘unknown energy consumers’ sites may be inadvertently captured by the prohibition.

It would be prudent for DCCEEW to provide retailers with additional clarification and guidance on the more nuanced situations that could arise from the proposed prohibition, including whether the unknown energy consumer and/or subsequent account holder is deemed to have consented to the demand retail tariff and whether the FRMP can unilaterally reassign a site to a retail demand tariff while the property is vacant and there is no active account holder.

Unknown energy consumers or ‘DNI sites’ (Disconnection for non-identification) are industry terms which describe an arrangement whereby a new occupant moves into the property and starts consuming electricity/gas under a deemed contract arrangement and without entering into a formal arrangement for the sale and supply of energy with a retailer.

Where an unknown energy consumer site was previously assigned a demand retail tariff, it will remain on that tariff until the subsequent occupant/accountholder explicitly requests a change. In this scenario, if a new occupier moves into a site configured with a demand retail tariff, but does not establish an account with a retailer and commences using energy, the occupier will be supplied under a deemed retail arrangement and charged in accordance with the existing tariff configuration that was applied by the Financially Responsible Market Participant (FRMP) at the time the previous resident vacated the premises.

By extension, this may apply to the subsequent accountholder for the site as the retail tariff is not remapped, nor does it revert or default to another retail tariff at the time a new occupant moves in.

Existing demand customers

Further to the above, industry would welcome DCCEEW’s guidance on the treatment of customers who, at the time the prohibition takes effect, are already assigned to a retail demand tariff. AGL anticipates that the rules will apply prospectively and will not capture these existing customers (as is good regulatory practice).

Notwithstanding, there are a number of practical questions and considerations that should be resolved at the onset to ensure that industry and consumers are set up for success from the commencement of these rules.

AGL requests that DCCEEW provides in its Final Determination:

- Explicit confirmation that the proposed prohibition does not apply retrospectively to customers already on a retail demand tariff, and that retailers will not be obligated to reassign existing retail demand tariff customers to another non-cost-reflective retail tariff.
- Further guidance on customer transfers between retailers where the customer is already on a demand retail tariff, including whether the gaining retailer can maintain the customer's existing demand tariff component.
- DCCEEW may be aware that some distributors use alternative terms for demand charges, such as capacity charge, summer peak demand, or winter demand. AGL is seeking clarity in scenarios where a network changes the structure of these charges, would the retailer be required to obtain EIC again to update the customer's pricing structure to follow the network?
    - Alternatively, DCCEEW may seek to define the term 'demand retail tariff' and 'demand network tariff' for further clarity and certainty in this context.
- Clarification as to whether the prohibition applies when seeking to reassign a customer's demand retail tariff to a different demand tariff, or whether having any demand component in the retail tariff will enliven these rules? One common example is where networks have transitional demand tariffs for the first 12 months before reassigning to 'full' demand. Or similarly, if the retailer proposes to change from a single rate with demand to TOU with demand.

Requirement for designated retailers to offer flat rate tariff structures

Question 4: Should New South Wales implement the AEMC's requirement for designated retailers to offer flat rate tariff structures to customers with smart meters? Why?

AGL supports NSW DCCEEW implementing the ASMD Final Rule requirement for designated retailers to offer flat rate standing offer tariff structures to customers with a smart meter. AGL has already accommodated for these reforms in other jurisdictions.

Consistent with AGL's position above, the new requirement to offer a flat standing offer tariff should apply to residential customers/residential customer tariffs, rather than business customers, noting that it is appropriate for business customers to be assigned to or opt into cost-reflective tariffs.

As part of the energy transition and the long-term evolution of Australia's energy system, it is still incumbent on government and policymakers to encourage and incentivise efficient energy use and prompt the behavioural changes needed to support system-wide outcomes. While we acknowledge that some customers are not able to respond to price signals or benefit from cost-reflective pricing, many customers, particularly business customers, are well placed to do so. Cost-reflective pricing remains a critical tool, and it is DCCEEW's responsibility to incentivise, rather than discourage, good energy practices and strong long-term consumer outcomes.

Question 5: If New South Wales were to implement the AEMC's national requirement, should it be amended in any respect, such as by:

Requiring all retailers to make flat rate tariffs available for any customer with a smart meter to which an energy contract is offered?

We understand this to mean that the requirement to offer a flat-rate tariff to smart meter customers could apply to both Standard Retail Contracts (standing offers) and Market Retail Contracts.

AGL does not generally support this proposition as it substantively departs from the ASMD Final Rule and encroaches on retailers' strategic direction and the right to determine which market retail products are available to our customers.

Providing retailers with discretion in requiring the offering of a flat rate tariff structure or a time-of-use tariff structure to all customers with smart meters?

AGL supports this approach and welcomes the increased flexibility for retailers to determine whether a flat-rate or time-of-use standing offer tariff structure best complements their suite of energy products.

Prescribing an end date to the requirement?

AGL supports the rule being time-limited, applying for a period of two years from the commencement of the new National Energy Retail Law (Adoption) Regulation instrument. This is consistent with the decision under the ACT's recent remake of the *National Energy Retail Law (ACT)* legislation*.*

About AGL

Proudly Australian since 1837, AGL provides over 4.5 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. AGL operates the largest private electricity generation portfolio in Australia, with a total operated generation capacity of almost 8000 MW across Australia as of 30 June 2025. AGL owns Australia's largest privately-owned fleet of hydro assets and operates the largest portfolio of renewables and storage assets of any ASX listed company. Since 2006, AGL has invested billions of dollars in the construction and delivery of over 2 GW of renewable and firming capacity in the National Electricity Market (NEM).

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

Yours sincerely,

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