



# Policy

## AGL Market Disclosure Policy

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**This Policy relates to:**

All AGL Employees and Contractors

Approved by the AGL Board: 21 April 2021



## 1. Purpose

This Policy explains how AGL Energy Limited (“AGL”) complies with its continuous disclosure obligations and manages other communications with the media and financial markets including, but not limited to, periodic disclosure obligations.

The objectives of the Policy are to:

- facilitate a reasonably informed market in AGL securities by meeting AGL's continuous disclosure obligations under ASX Listing Rule 3.1 and section 674 of the Corporations Act;
- enable AGL to comply with its periodic and other disclosure obligations under other ASX Listing Rules and other provisions of the Corporations Act;
- establish best practice for continuous disclosure in accordance with the principles set out in ASX Guidance Note 8, ASIC's Regulatory Guide 62: *Better Disclosure for Investors* and Principle 5 of the ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations*;
- ensure that AGL's Employees are aware of AGL's obligations to disclose information in accordance with the continuous disclosure requirements of the ASX Listing Rules;
- set out the procedures for identifying and assessing information for disclosure to the Australian Securities Exchange (“ASX”) in accordance with AGL's continuous disclosure obligations; and
- establish processes to ensure that all AGL's announcements to the market are accurate, balanced and expressed in a clear and objective manner to allow investors to assess the impact of the information when making investment decisions.

## 2. Commitment to Continuous Disclosure

AGL is committed to:

- complying with the general and continuous disclosure obligations contained in the ASX Listing Rules and the Corporations Act;
- seeking to prevent the selective or inadvertent disclosure of material market sensitive information; and
- ensuring that AGL's shareholders and the market are provided with full and timely information about its activities as required by the ASX Listing Rules.

## 3. Scope and Application

This Policy applies to all AGL Directors, and to all employees of AGL and any of its controlled subsidiary companies. It also applies to any individual person working directly for AGL and any of its controlled subsidiary companies under a contract other than a contract of employment. Each of these persons is referred to in this Policy as an AGL Employee.

AGL has also developed separate internal market disclosure and investor relations procedures to provide more detailed guidance to AGL Employees who are responsible for the effective implementation of this Policy.

## 4. Continuous Disclosure Obligation

### 4.1. What is AGL's continuous disclosure obligation?

ASX Listing Rule 3.1 and section 674 of the Corporations Act require AGL to immediately notify the ASX when a Director or officer of AGL becomes aware of any information relating to AGL which a reasonable person would expect to have a material effect on the price or value of any AGL securities.

AGL is taken to be aware of information that is known by anyone within AGL and is of such significance that it ought reasonably to have been brought to the attention of a Director or officer of AGL in the normal course of performing their duties. The term "officer" has the same meaning as in the Corporations Act and includes directors, secretaries and certain senior managers.

In this Policy, information which a reasonable person would expect to have a material effect on the price or value of AGL securities is referred to as "market sensitive information".

### 4.2. When is information "market sensitive"?

Information is market sensitive if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to buy or sell AGL securities.

ASX has suggested that the following questions may be helpful in considering whether particular information is market sensitive:

- Would the information influence my decision to buy or sell AGL securities at their current market price?
- Would I feel exposed to an action for insider trading if I were to buy or sell AGL securities at their current market price knowing this information had not been disclosed to the market?

If the answer to either question is "yes", then that answer should be taken as an indication that the information may be market sensitive. **Appendix A** provides examples of items that may be market sensitive information.

### 4.3. Exception to the continuous disclosure obligation

Market sensitive information does not have to be disclosed if **ALL** of the following requirements are satisfied in relation to the information:

- one or more of the following applies:
  - it would be a breach of law to disclose the information;
  - the information concerns an incomplete proposal or negotiation;
  - the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
  - the information was generated for internal management purposes; or
  - the information is a trade secret; and
- the information is confidential and the ASX has not formed the view that the information has ceased to be confidential; and
- a reasonable person would not expect the information to be disclosed.

A decision on whether the exception applies in respect of a particular item of market sensitive information shall be determined by the Market Disclosure Committee (refer to paragraph 6 below).

When AGL is relying on the exception above, or is involved in a commercial activity that may require reliance on the exception, strict confidentiality must be maintained and appropriate confidentiality protocols must be adhered to. AGL also adopts heightened monitoring procedures during these periods.

#### 4.4. When is disclosure of market sensitive information required?

If information is market sensitive, and none of the disclosure exceptions apply (see paragraph 4.3), then the information should be **immediately** disclosed to the ASX.

The requirement for "immediate" disclosure does not require instantaneous disclosure but rather that the information be disclosed "promptly and without delay". Doing something "promptly and without delay" means doing it as quickly as it can be done in the circumstances and not deferring, postponing or putting it off to a later time. This is a high standard. Notwithstanding this, ASX recognises that the speed with which disclosure can be made will depend on the circumstances. Relevant factors may include:

- where and when the information originated;
- the forewarning (if any) that AGL had of the information;
- the amount and complexity of the information concerned;
- the need in some cases to verify the accuracy or bona fides of the information;
- the need for an announcement to be carefully drawn so that it is accurate, complete and not misleading;
- the need in some cases for an announcement to comply with specific legal or Listing Rule requirements; and
- the need in some cases for the information and/or the relevant announcement to be approved by the Board or the Market Disclosure Committee.

Having taken these factors into account, if AGL is unable to make disclosure promptly and without delay, then a trading halt should be considered.

## 5. Reporting Market Sensitive Information to Company Secretary

An AGL Employee, on becoming aware of information that is potentially market sensitive information and that has not previously been disclosed to the market must, promptly and without delay, give the Company Secretary full details of the information including details of the circumstances of the information, names of all parties involved in the matter (including other AGL Employees and any advisers engaged by AGL in connection with the matter), an explanation of why the matter might be considered to be market sensitive, and whether the matter involves a proposal which has not yet been finalised. Each AGL Employee also has an important role in maintaining and protecting the confidentiality of AGL's information, including any potentially market sensitive information. This is critical to fulfilling AGL's disclosure obligations because once confidentiality of market sensitive information has been lost, AGL may need to disclose that information to the ASX.

It is not up to AGL Employees to determine if information is market sensitive. AGL Employees must disclose all potentially significant information concerning AGL to the Company Secretary for consideration by the Market Disclosure Committee, whether or not the AGL Employee believes that:

- it is not sufficiently material for disclosure; or
- the exception to disclosure applies.

The Market Disclosure Committee will determine what, if any, further action is required.

## 6. Market Disclosure Committee

### 6.1. Composition

AGL has established a Market Disclosure Committee comprising the Managing Director, the Company Secretary, the Chief Financial Officer and the General Manager, Corporate Finance.

### 6.2. Responsibilities

The Market Disclosure Committee is responsible for:

- putting in place and monitoring processes and controls to allow for the timely identification and escalation of market sensitive information;
- except as provided elsewhere in this Policy, determining whether the market sensitive information should be disclosed to the ASX;
- overseeing the preparation of market announcements;
- except as provided elsewhere in this Policy, approving the form and content of information to be disclosed to the ASX;
- monitoring compliance with AGL's continuous disclosure and periodic disclosure obligations;
- in relevant circumstances, reviewing reports on movements in the price at which AGL securities are traded to identify circumstances where a false market may have emerged in AGL's securities;
- reporting to the Board details of material considerations of the Market Disclosure Committee including details of announcements made to the ASX, matters considered by the Market Disclosure Committee as not required to be disclosed to the ASX, and instances where the Managing Director, the Chief Financial Officer, the Company Secretary or the General Manager, Corporate Finance has – independently of the Market Disclosure Committee – determined that a matter is not required to be disclosed to the ASX; and
- educating management and employees on AGL's continuous disclosure policies and procedures.

### 6.3. Meetings

The Market Disclosure Committee shall meet on an "as needs" basis to allow it to meet its responsibilities as set out in paragraph 6.2 above. Meetings of the Committee are intended to be flexible and may occur on short notice, in person or through electronic means (e.g. telephone or email).

In the ordinary course, the General Manager, Corporate Finance has responsibility for convening a meeting of the Market Disclosure Committee, although any member may also convene a meeting to consider whether AGL has an obligation to disclose information to the market.

Decisions of the Market Disclosure Committee must be made with the participation of at least two members.

The Market Disclosure Committee shall keep appropriate records of its meetings, including notes of reasons as to whether information escalated for its consideration does or does not need to be disclosed to the market.

## 7. Making Market Disclosures

### 7.1. Approval of content of market disclosures

Ordinarily, the Market Disclosure Committee will approve the content and release of market disclosures by AGL. Paragraph 7.2 sets out where Board approval may be required.

Decisions of the Market Disclosure Committee about the content of any disclosure to be made to the ASX shall be by consensus of those members available, with decisions to be escalated to the Chairman (or if the Chairman is unavailable, another Non-executive Director) in unusual situations where consensus cannot be reached by the Market Disclosure Committee.

Company announcements must be accurate, complete and not misleading. Emotive, vague or imprecise language should be avoided.

### 7.2. Role of the Board

Where there is a proposed company announcement regarding a matter of significance, the Managing Director may consult with the Chairman as to whether the relevant matter should be considered by the Board prior to any disclosure being made.

The following matters must be referred to, and approved by, the Board before being disclosed to the market:

- the substantial content of all market presentations relating to the company's annual or half yearly financial results;
- any statement relating to the future earnings performance of the company (including any guidance statements);
- significant corporate actions or company-transforming events; and
- any statement relating to changes in AGL's strategy.

### 7.3. Rapid approval process

If an announcement that would ordinarily require Board approval must immediately be disclosed to the market in order to comply with AGL's continuous disclosure obligations, all reasonable effort will be made to convene a Board meeting to urgently approve the announcement. If it is not possible to convene a Board meeting, all reasonable effort will be made to obtain the approval of the Chairman for the announcement. If that is not possible, the Market Disclosure Committee will approve the announcement and the announcement must be considered by the Board at the first possible opportunity following release to decide what, if any, further steps need to be taken by AGL.

### 7.4. Disclosure to ASX

The Company Secretary is the person responsible for managing all communication with the ASX.

The Company Secretary will co-ordinate the distribution to ASX of all matters required to be disclosed to the ASX.

AGL must not release any information publicly that is required to be disclosed to the ASX until the Company Secretary has received formal notification of its release by the ASX.

After the ASX has notified the Company Secretary that the information disclosure has been released to the market, a copy of the information disclosure shall be placed on AGL's website at the earliest opportunity.

A copy of each release of information made to the ASX will be emailed to all Directors and members of AGL's Executive team immediately following release by the ASX. If a Director believes that the information contained in an announcement is potentially misleading or inaccurate, the Director must immediately inform the Company



Secretary. The Company Secretary will arrange for the Market Disclosure Committee to be convened promptly and without delay to consider the matter and make appropriate corrective disclosure if required.

## 8. Trading Halts and Voluntary Suspensions

In certain circumstances, AGL may need to request a trading halt (and, in exceptional cases, a voluntary suspension) from the ASX as the most effective way to manage AGL's continuous disclosure obligations while facilitating a fair and informed market.

This may be the case where an event has occurred which is likely to materially affect the price or value of AGL securities but AGL is not yet in a position to disclose any information to the ASX. Such events would include the leaking of confidential discussions or an event which affects or is likely to affect earnings but where AGL is still trying to understand the impact. This may be because Board approval of the disclosure is required or because AGL needs time to properly consider the consequences of the event or draft an appropriate disclosure.

A voluntary suspension will only be appropriate where AGL has been in a trading halt for the maximum permissible period but the matter is still not resolved.

The Company Secretary may request a trading halt or voluntary suspension in accordance with the following protocol:

- Where practicable, with the approval of the Board;
- If a meeting of the Board is not practicable, with the approval of the Chairman;
- If it is not practicable to obtain the approval of the Chairman, with the approval of the Chair of the Audit and Risk Management Committee;
- If it is not practicable to obtain the approval of the Chair of the Audit and Risk Management Committee, with the approval of the Managing Director;
- If it is not practicable to obtain the approval of the Managing Director, with the joint approval of the Company Secretary and either of the other two members of the Market Disclosure Committee.

However, if it is not reasonably possible to obtain approval to a trading halt or voluntary suspension as set out above and the Company Secretary considers that it is necessary for AGL to immediately request a trading halt to comply with its continuous disclosure obligations, then the Company Secretary is authorised in these circumstances to request a trading halt without the approval of other internal stakeholders.

## 9. Other Disclosure Matters

### 9.1. Periodic disclosure and blackout periods

Within two months of the end of its half year, AGL must give the ASX the information required to be given to ASIC under section 320 of the Corporations Act and the information set out in Appendix 4D of the ASX Listing Rules.

Within two months of the end of the financial year, AGL must give the ASX the information required to be given to ASIC under section 319 of the Corporations Act and the information set out in Appendix 4E of the ASX Listing Rules.

Blackout periods will apply in respect of the period between the end of each half year or full year and the date AGL announces its half year or full year financial results, and any other period that the Board may specify from time to time. During the blackout periods, discussions with analysts and investors will be suspended (other than in respect of administrative matters) and AGL will not comment on earnings estimates made by market analysts or any other person unless required to do so to prevent a false market in respect of AGL securities or at the request of the ASX and then only in the form of a disclosure made to the ASX.



## 9.2. External communications and analyst briefings

AGL must not communicate any market sensitive information to institutional investors, stockbroking analysts or any other third party unless it has first been disclosed to the ASX.

If AGL gives a new and substantive investor or analyst presentation, the presentation must be lodged with ASX ahead of the presentation, regardless of whether it contains new price sensitive information.

Only authorised representatives may speak on behalf of AGL to external parties, such as institutional investors or stockbroking analysts. No one is authorised to speak on behalf of AGL other than the following authorised spokespersons:

- the Chairman;
- the Chair of the People & Performance Committee in relation to remuneration matters;
- the Managing Director;
- the Chief Financial Officer;
- the General Manager, Corporate Finance; or
- any delegate nominated by any of the above authorised spokespersons.

AGL will only comment on market sensitive information that has previously been disclosed to the ASX.

AGL will not expressly or implicitly provide institutional investors or stockbroking analysts with any guidance on forecast earnings or financial performance that has not already been disclosed to the ASX.

Questions asked in analyst briefings that concern market sensitive information that has not yet been disclosed to the ASX must not be answered.

The Company Secretary must be notified, promptly and without delay, of any market sensitive information that has been inadvertently disclosed in the course of an analyst briefing. The Company Secretary will, promptly and without delay, release that market sensitive information to the ASX.

More than one AGL representative must be present at any one-on-one briefing with institutional investors or stockbroking analysts. A record must be kept of all such briefings.

## 9.3. False markets, market speculation, and rumours

AGL's policy is to not respond to market speculation and rumours except in the circumstances set out below.

AGL may make a statement in response to market speculation or rumours if the Market Disclosure Committee determines that AGL is obligated to make a statement to the market about a particular matter, including where:

- AGL is required to respond to a formal request for information from the ASX; or
- a statement is required to prevent or correct a false market in respect of AGL securities.

Statements in relation to market speculation or rumour are to be prepared by the Market Disclosure Committee and, subject to the need to provide information to the ASX promptly and without delay, referred by the Managing Director to the Chairman (or any other Director appointed in the Chairman's absence) who will determine whether the statement should be approved by the Board before it is released to the ASX.

## 9.4. Earnings expectations

Any change in earnings expectations (upwards or downwards) that is market sensitive – that is, of such a magnitude that a reasonable person would expect it to have a material effect on the price or value of AGL's securities, must be announced to the ASX before being communicated to anyone outside AGL.

Where earnings guidance has been provided, ASX considers that a disclosure obligation may be triggered if projected actual earnings are likely to vary from guidance by more than 5% and would be likely to be triggered if the variation was more than 10%. However, for entities like AGL which are within the ASX300 or which normally



have very stable or predictable earnings, ASX states that they should consider applying a materiality threshold of 5% rather than 10%.

AGL will have regard to the principles outlined in ASX Guidance Note 8 in assessing whether disclosure is required under Listing Rule 3.1 and, where it has published its own guidance, whether disclosure is also required to prevent that guidance from being misleading or deceptive.

Irrespective of whether AGL has provided earnings guidance, AGL needs to be aware if market expectations of earnings differ significantly from projected actual earnings. AGL should consider possible reasons for this difference and consider whether it has arisen because AGL has information which may require disclosure to the ASX.

AGL will consider whether to request a trading halt if it is aware of information that may have a bearing on earnings expectations, but further details are required to assess the financial effect of that information. The Company Secretary will (if appropriate) discuss AGL's concerns with ASX.

## 9.5. Other external communications / presentations

In addition to disclosures of information made on the ASX, other statements will be made, or documents prepared, by AGL Employees for distribution or presentation to the public.

Such communications may include:

- media releases;
- speeches or presentations to be made by, or articles for publication written by, senior AGL managers;
- public tender documents;
- academic papers (including theses and papers for publications in specialist journals);
- material to be published on AGL's website;
- submissions/evidence to public inquiries (including government or industry inquiries); and
- fact books or other corporate publications.

All media releases must be approved by the General Manager, Communications Corporate Affairs or delegate before being issued. A media release may not be issued in respect of any market sensitive information unless that information has first been disclosed on the ASX in accordance with this Policy. Media releases relating to matters of substantial importance or sensitivity, but which do not involve any matter of market sensitive information, should be reviewed by the Managing Director and at least one other member of the Market Disclosure Committee before being issued.

A member of the Market Disclosure Committee will review all other proposed AGL public communications to avoid any unintended breaches of this Policy or inadvertent breach of AGL's continuous disclosure obligations.

## 9.6. Public comments and social media

Except as provided in this Policy, no AGL Employee may make external comments (whether verbally or by publication) regarding AGL's business or operations without authorisation from an authorised spokesperson or without being authorised to do so under AGL's applicable communications policies.

This general prohibition includes comments via the internet, social media or social networking technologies. For example, AGL Employees should not comment about AGL or its business or operations on:

- external networking sites (eg Facebook, LinkedIn);
- online discussion forums and blogging sites, including microblogs (eg Twitter);
- video and photo sharing sites (eg YouTube, Flickr);
- online encyclopaedias (eg Wikipedia); or
- any other websites that allow individual users to publish information.

## 10. Compliance and Assurance

All AGL Employees are required to comply with this Policy. Breaches of this Policy will be taken very seriously by AGL and may lead to disciplinary action being taken against employees, including dismissal in serious cases.

Any AGL Employee who becomes aware of information that may be market sensitive information must, promptly and without delay, advise the Company Secretary or any other member of the Market Disclosure Committee of that information.

Each member of AGL's Executive Team must provide a quarterly statement to the Company Secretary confirming that all market sensitive information that they have become aware of during the preceding three-month period has been notified to the Company Secretary.

The Company Secretary shall submit semi-annual reports to the Board setting out:

- an overview of the operation of the Policy in practice, including a discussion of key risk exposures and how these are being managed;
- the number of matters considered by the Market Disclosure Committee and disclosed to the ASX and not disclosed to the ASX;
- a brief summary of each matter considered by the Market Disclosure Committee but not disclosed to the ASX and the reason for non-disclosure; and
- any significant potential disclosure matters revealed by the review of the quarterly statements provided by members of the Executive Team.

## 11. Review of Policy

This Policy shall be reviewed biennially by the Market Disclosure Committee to check that it is operating effectively and whether any changes are required to the Policy.

All changes to the Policy must be approved by the Board.

**Approved by the Board:** 21 April 2021

## APPENDIX A

### **Examples of potentially market sensitive information (based on extract from notes to ASX Listing Rule 3.1)**

Examples of the type of information that may constitute market sensitive information and require disclosure include:

- A transaction that will lead to a significant change in the nature or scale of AGL's activities;
- A transaction that may result in a change of control of AGL;
- A material acquisition or disposal;
- The granting or withdrawal of a material licence;
- The entry into, variation or termination of a material agreement;
- Becoming a plaintiff or a defendant in a material law suit;
- The fact that earnings will be materially different from market expectations;
- The appointment of a liquidator, administrator or receiver;
- The commission of an event of default under, or other event entitling a financier to terminate, a material financing obligation;
- Under subscriptions or over subscriptions to an issue of securities;
- Giving or receiving a notice of intention to make a takeover; and
- Any rating applied by a rating agency to AGL or its securities or any change to such a rating.

This list is not exhaustive.