

Statement of Charging Principles

For Large Customers Without
a Retail Contract



Statement of Charging Principles for Large Customers Without a Retail Contract

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Statement of Charging Principles for Large Customers Without a Retail Contract

1. The Parties

This Statement applies to:

- (a) AGL, as the *financially responsible retailer* who provides you with *customer retail services* at your *premises* (in this Statement, referred to as 'we', 'our' or 'us'); and
- (b) You, as the person consuming electricity at the *premises*.

2. Definitions

Words appearing in italicized type like *this* are defined in Schedule 1 to this Statement.

3. Does this Statement Apply to You?

- (a) This Statement applies to you if we are the *financially responsible retailer* for your *premises* and:
 - (i) you are a *large customer*, and
 - (ii) you do not have an appropriate arrangement in place with a *retailer* for the payment of electricity consumed at your *premises*.
- (b) Pursuant to section 64 of the *National Energy Retail Law*, we are entitled to charge you an amount for your consumption of electricity that we consider would have been charged had an appropriate arrangement been in place and to the extent that amount is not paid to us, it is a debt owed by you to us and may be recovered in a court of competent jurisdiction.

4. When will this Statement apply?

4.1 When will this Statement apply?

This Statement applies on and from the date we first provide you with *customer retail services* at your *premises*.

4.2 When does this Statement cease to apply?

- (a) The arrangements set out in this Statement will end on the earliest of the following to occur:
 - (i) the date that you become a *small customer* in relation to the *premises*;
 - (ii) the date a different *customer* starts receiving *customer retail services* under a *retail contract* for the *premises*;
 - (iii) when we or another *retailer* enter into a contract with you for providing *customer retail services* to you at your *premises* and your responsibility for payment for *customer retail services* under the new contract commences;or

- (iv) if you have vacated or intend to vacate your premises, on the day you cease to be responsible to pay for customer retail services supplied to that premises under clause 14.
- (b) If clause 4.2(a)(iv) applies, but we are not able to obtain safe access to the premises to conduct a final meter reading (where relevant), then the arrangements under this Statement will continue to apply until the earlier of:
 - (i) 10 business days after safe access is given; and
 - (ii) when the meter is read, or the relevant metering data is obtained.

4.3 Rights when this Statement ceases to apply

The fact that this Statement has ceased to apply does not affect any rights or obligations which have accrued prior to that time.

5. Scope of this Statement

5.1 What is covered by this Statement?

This Statement applies only to the provision of *customer retail services* to you at your premises. We will comply with the requirements set out in this Statement. In return, you are required under section 64 of *National Energy Retail Law* to pay the amount charged by us, under clause 9 of this Statement.

5.2 What is not covered by this Statement?

- (a) We do not operate the *supply network* to which your premises is connected. This is the role of your distributor.
- (b) You have a separate *customer connection contract* with your distributor. Your distributor is responsible for:
 - (i) the connection of your premises to the supply network;
 - (ii) the maintenance of that connection;
 - (iii) the supply of electricity to your premises; and
 - (iv) the quality and other characteristics of electricity supplied to your premises.
- (c) Unless you negotiate a different arrangement with your distributor (a '*negotiated connection contract*'), a *deemed connection contract* will govern your contractual relationship with your distributor. Even if you do not apply to enter into a *deemed connection contract* it will automatically come into place by operation of law.

5.3 Quality of electricity supplied to your premises

We cannot regulate the quality or reliability of electricity supplied to your premises. Electricity may suffer from fluctuations and interruptions from time to time for a number of reasons, including:

- (a) the location of your premises;
- (b) whether your premises is served by underground or overhead mains;
- (c) weather conditions;

- (d) animals, vegetation, the actions of vandals and other people;
- (e) the existence of emergency or dangerous conditions;
- (f) damage to an electricity network;
- (g) the design and technical limitations of an electricity network; and
- (h) the demand for electricity at any point in time.

Unexpected fluctuations or interruptions may cause damage to your equipment or cause it to malfunction. We recommend that you give careful consideration to taking out appropriate insurance coverage or installing devices to protect your equipment and property when these fluctuations or interruptions do occur.

6. Modification or Upgrade of Connection

6.1 Connection

If your existing connection to the *supply network* or associated equipment requires modification or upgrading, you will need to make the necessary arrangements with your *distributor* about your connection. In some cases, we can assist with making these arrangements on your behalf.

7. Our Liability

7.1 How this clause operates with laws including the Competition and Consumer Act

- (a) The *Competition and Consumer Act 2010* (Cth) and other laws imply certain conditions, warranties and rights into contracts that cannot be excluded or limited.
- (b) Unless one of these laws requires it, we give no condition, warranty or undertaking, and we make no representation to you about the condition or suitability of electricity, its quality, fitness, or safety, other than those set out in this Statement.
- (c) Any liability we have to you under these laws that cannot be excluded but that can be limited is (at our option) limited to:
 - (i) us providing equivalent goods or services to those that were to be provided by us to your *premises*; or
 - (ii) us paying you the cost of replacing the goods or services to those that were to be provided by us to your *premises*, or the cost of you acquiring equivalent goods or services.

7.2 Not liable

- (a) Unless this statement as it applies to you is a “small business contract” under part 2-3 of the Australian Consumer Law, so far as the law allows, we are not liable for any loss or damage you suffer (whether due to negligence or otherwise) because of the electricity we sell to you.
- (b) In particular, we are not liable for any loss or damage you may suffer because:
 - (i) there is a failure of electricity supply, or there is a defect in the electricity supplied (however caused); or

- (ii) some characteristic of the electricity or the quality of the electricity (for example, voltage or frequency) makes it unsuitable for some purpose.

7.3 Non-exclusion

This clause 7 applies in addition to, and does not vary or exclude, the operation of sections 119 and 120 of the *National Electricity Law*.

7.4 Survival of this clause

This clause 7 continues to apply after the arrangements contemplated under this Statement have ended.

8. Price for Electricity and Other Services

8.1 What are our tariffs and charges?

- (a) We will charge you in accordance with the *market prices* which are set by us and published on our website (<https://www.agl.com.au/terms-conditions/contracts-rates-large-business>). We amend the *market price* from time to time.
- (b) To the extent permitted by the *electricity legislation*, we may pass through to you any other charges imposed by your *distributor* which are not included in the *market prices*, including network charges. We may also charge you the *metering charge*, provided we are entitled to do so.
- (c) We will pay any amounts received for *customer connection services* from you to the *distributor* providing those services.

8.2 Changes to the rate of a tariff or charge during a billing cycle

If the rate of a tariff or charge applying to you changes during a *billing cycle*, your bill for that *billing cycle* will be calculated on a pro-rata basis using:

- (a) the rate of the old tariff or charge up to and including the date of change; and
- (b) the rate of the new tariff or charge from that date to the end of the *billing cycle*.

8.3 Changes to tariff or charge type during a billing cycle

If the type of tariff or charge applying to you changes during a *billing cycle*, your bill for that *billing cycle* will be calculated using:

- (a) the old tariff or charge up to and including the date of change; and
- (b) the new tariff or charge from that date to the end of the *billing cycle*.

8.4 GST

- (a) Unless expressly stated otherwise, all amounts payable or the value of other consideration provided in respect of transactions under this Statement are expressed exclusive of GST (if any). Where a supply under this Statement is a taxable supply, all amounts payable or other consideration provided must be increased by the amount of GST payable in relation to the transaction.
- (b) All GST payable must be paid at the same time as the payment to which it relates is payable. Where any GST payable is not referable to an actual payment then it must

be paid within 10 *business days* of a tax invoice being issued by the party making the taxable supply.

9. Billing

9.1 When bills are sent

We may send a bill to you at any time after the end of each *billing cycle*.

9.2 Payments to the distributor

- (a) This clause does not apply to you if you are a *customer* on a *negotiated connection contract* who is billed directly by your *distributor*.
- (b) We will arrange for one bill to be sent to you for tariffs and charges due to us and those tariffs and charges due to your *distributor* for *customer connection services*. We will arrange for payment to *the distributor*.

9.3 Calculating the bill

- (a) We will calculate:
 - (i) the bill for electricity sold during the *billing cycle* (using information obtained from reading your meter or otherwise in accordance with the *electricity legislation*); and
 - (ii) the amount for any other services supplied in accordance with *energy legislation* during the *billing cycle*.
- (b) The bill may also include the *metering charge* and amounts due to the *distributor* for *customer connection services*.
- (c) The bill may also include:
 - (i) unbilled charges incurred in respect of a previous *billing cycle*;
 - (ii) adjustments in relation to charges which were billed or should have been billed in respect of a previous *billing cycle*; or
 - (iii) any other charges attributable to you at your *premises*, or any other address at which you purchased electricity from us.

9.4 Estimating the electricity usage

- (a) If your meter is unable to be read, or your *metering data* is not obtained, or is considered to be incorrect for any reason (for example, if access to the meter cannot be gained, or the meter breaks down or is faulty), the amount of electricity which was purchased from us at your *premises* may be estimated. The bill will clearly state the bill is based on an estimated reading.
- (b) When your meter is subsequently read, the next bill will include a line item showing the adjustment for the difference between the estimate and the actual amount of electricity used, based on the reading of the meter. When you have received an estimated bill due and a subsequent meter reading shows that you have been undercharged, we will include the amount undercharged in a subsequent bill and you must pay the undercharged amount.



- (c) If the meter is unable to be read due to your actions, and you subsequently request that we replace the estimated bill with a bill based on a reading of the meter, we will endeavour to accommodate your request but may pass through to you any cost we incur in doing so.

9.5 How bills are issued

We must send a bill:

- (a) to you at the address of your *premises* or such other address nominated by you; or
- (b) to a person authorised in writing by you to act on your behalf at the address specified by you.

9.6 Contents of a bill

The bill will be in a form and contain such information as is required by any applicable *electricity legislation*.

10. Paying Your Bill

10.1 What you have to pay

You must pay to us the amount shown on each bill (free of set off and without deduction) by the date shown on the bill as the date for payment, which must not be less than 12 *business days* after we send the bill.

10.2 Issue of reminder notices

If you have not paid a bill by the due date, we may send you a reminder notice that your bill is past due, giving you a further due date (which must not be less than 5 *business days* after the date we sent the notice).

10.3 Review of bills

- (a) Subject to clause 10.3(b), if you believe on reasonable grounds that any part of a bill is incorrect, then you may ask us to review the bill. Any such request must be in writing and must set out the grounds for your belief that the bill is incorrect. You must pay us the part of the bill not in dispute by the due date. You must also pay any future bills.
- (b) We will inform you of the outcome of our review within a reasonable period. If our review shows the bill to be correct, you must pay the amount of the bill in full. If our review shows that your grounds for believing the bill to be incorrect were not reasonable, you may be required to pay interest on the unpaid amount from the due date in accordance with clause 10.5.
- (c) Despite clause 10.3(a), you must pay all charges due to your *distributor* that are required to be paid to us under your *customer connection contract* in full by the due date.

10.4 How the bill is paid

You can pay the bill using any of the payment methods listed on the bill. If a payment you make is dishonoured (eg where a cheque or credit card payment is not honoured), we may

require you to pay an amount reflecting any cost incurred by us as a result of the payment being dishonoured.

10.5 Late payments

- (a) If you do not pay your bill on time, we may charge interest on the unpaid amount from the due date at the *interest rate* and compounded monthly, provided we are not prohibited by any applicable *electricity legislation* from doing so.
- (b) We may also require you to pay any costs incurred by us in recovering any amounts you owe to us (including any amount in dispute that is subsequently required to be paid by you), or due to your breach of the *electricity legislation*, provided we are not prohibited by any applicable *electricity legislation* from doing so.
- (c) This clause does not affect our right to arrange for your *premises* to be disconnected under clause 13 of this Statement.

11. Meters

You are required under the *electricity legislation* to allow safe and convenient access to your *premises* for the purposes of reading the relevant meters.

12. Overcharging and Undercharging

12.1 Undercharging

Where we have undercharged you, we may recover from you the amount undercharged.

12.2 Overcharging

Where you have been overcharged, we will inform you within 10 *business days* of becoming aware of that overcharging and:

- (a) if you have already paid that amount, credit that amount in a subsequent bill as soon as reasonably practicable; or
- (b) if you have ceased to purchase *customer retail services* from us, use our best endeavours to pay that amount to you within 10 *business days*.

13. Disconnection of Supply

13.1 When can we arrange for disconnection?

We may arrange for the disconnection of your *premises* by giving you 5 *business days* notice if:

- (a) you do not pay any amount which is due under the *National Energy Retail Law*,
- (b) we reasonably consider that you are failing to comply with your obligations under any *electricity legislation*; or
- (c) subject to any applicable law, an insolvency event has occurred or continues to occur in respect of you,

and you do not remedy the breach before the expiry of the notice. The disconnection will take effect upon the expiry of such notice.

There are other circumstances in which your *distributor* can also arrange for disconnection under your *customer connection contract*, such as in cases of emergency or for safety reasons. These are detailed in your *customer connection contract*.

14. Vacating a Premises

- (a) If we receive notice that you intend to vacate your *premises*, we must use our best endeavours to arrange that the relevant meters are read on the date specified in your notice (or as soon as possible after that date if you do not provide access to your meter on that date) and send a final bill to you at the forwarding address stated in your notice. Subject to clause 14(b), you will cease to be responsible for charges for the premises on the date which is the later of:
 - (i) 20 *business days* after notice is provided to us; and
 - (ii) any later date specified in your notice.
- (b) If you do not give safe access to the premises to conduct a final meter reading (where relevant), you will continue to be responsible for charges for the *premises* until the earlier of:
 - (i) 10 *business days* after safe access is given; and
 - (ii) when the meter is read or the relevant metering data is obtained.

15. Transfer to a New Retailer

If you have entered into an agreement to receive *customer retail services* from another *retailer* at your *premises*, we may:

- (a) conduct a special reading of the meter at your premises; and
- (b) charge you a pass-through fee to conduct the special reading of the meter at your premises.

16. Use of Electricity and Wrongful Use

16.1 Use of electricity

You must not:

- (a) illegally use electricity;
- (b) interfere or allow interference with any of our equipment which is at the *premises* except as may be permitted by law;
- (c) use the electricity supplied to your *premises* or any *electrical equipment* in a manner which:
 - (i) unreasonably interferes with the connection or supply of electricity to another *customer*; or
 - (ii) causes damage or interference to any third party;



- (d) allow *customer retail services* purchased from us to be used other than in accordance with the *electricity legislation*; or
- (e) tamper with, or permit tampering with, any meters or associated equipment.

16.2 Wrongful use

If you are in breach of the requirements set out in clause 16.1 of this Statement, we or your *distributor* may, in accordance with any applicable *electricity legislation*:

- (a) estimate the amount of the electricity so obtained and bill you or take debt recovery action against you for that amount; and
- (b) arrange for the immediate disconnection of your *premises*.

17. Notices and Bills

Unless any applicable *electricity legislation* otherwise allows (for example, where phone calls are allowed), all notices must be sent in writing. We can send you notices to your *premises*.

Notices and bills are deemed to have been received by a party:

- (a) on the date it is handed to the party, it is left at the party's *premises* (in your case) or one of our offices (in our case); or
- (b) on the date 4 *business days* after we post it to your *premises*.

18. Privacy and Confidentiality

- (a) Subject to clause 18(b), we must keep your information about you confidential in accordance with the *Privacy Act 1988* (Cth).
- (b) We may disclose information about you:
 - (i) if required or permitted by law to do so;
 - (ii) if we are required or permitted by our licence to do so, such as to a law enforcement agency; or
 - (iii) where you give us written consent.

19. Queries and Complaints

If you have a query or a complaint relating to the sale of electricity by us to you, you may contact us on the details set out in our last bill to you, or as notified to you from time to time.

20. Applicable Law

- (a) We will comply with any applicable requirements of any codes issued under the *electricity legislation* from time to time.
- (b) The laws of the State or Territory in which your *premises* is located govern our arrangements with you.

21. General

21.1 Our obligations

Some obligations placed on us under the *electricity legislation* may be carried out by another person. If an obligation is placed on us to do something then we are deemed to have complied with the obligation if another person performs the task on our behalf.

21.2 Ending of arrangements under this Statement does not affect a *customer connection contract*

To avoid doubt, if you are a party to a *deemed connection contract* with a *distributor*, the ending of the arrangements under this Statement does not affect that contract with the *distributor*.

21.3 Amending this Statement

This Statement may be amended from time to time by us. We will publish the amended Statement on our website.

Schedule 1

1. Definitions

AEMO means the Australian Energy Market Operator Limited ACN 072 010 327.

AER means the Australian Energy Regulator established by section 44AE of the *Competition and Consumer Act 2010* (Cth).

AGL means:

- (a) in relation to *premises* in South Australia, AGL South Australia Pty Limited ABN 49 091 105 092 of Level 24, 200 George Street, Sydney NSW 2000; or
- (b) in relation to *premises* in New South Wales, Queensland, or the Australian Capital Territory AGL Sales Pty Limited ABN 88 090 538 337 of Level 24, 200 George Street, Sydney NSW 2000.

billing cycle means:

- (a) in relation to the first bill we issue after we become aware that you have been consuming electricity at your *premises* without an appropriate retail contract in place, the entire period you have been consuming electricity at the *premises* without an appropriate retail contract in place; and
- (b) for each subsequent period, the regular recurrent period for which you receive a bill from us.

business customer means a *customer* who is not a *residential customer*.

business day means a day, other than a Saturday, a Sunday or a public holiday in the State or Territory in which the relevant *premises* is located.

business premises has the meaning given in the National Energy Retail Law.

customer connection contract means a contract between a *distributor* and a *customer* of the kind set out in section 67 of the *National Energy Retail Law*, which includes *negotiated connection contracts* and *deemed connection contracts*.

customer connection services, for *premises*, means:

- (a) the connection of the *premises* to a *supply network* to allow the supply of electricity from the *supply network* to the *premises*;
- (b) the supply of electricity from the *supply network* to the *premises*; and
- (c) any other services defined as customer connection services in the National Energy Retail Law.

customer retail services means the sale of electricity to the *premises*.

deemed connection contract means either a:

- (a) 'deemed AER approved standard connection contract' between a *customer* and a *distributor* that is taken to be entered into under section 76 of the *National Energy Retail Law*; or
- (b) 'deemed standard connection contract' between a *customer* and a *distributor* that is taken to be entered into under section 70 of the *National Energy Retail Law*.

distributor means:

- (a) a regulated distribution system operator within the meaning of the *National Electricity Law*; or
- (b) a nominated *distributor*, to the extent provided by section 12 of the *National Energy Retail Law*.

electrical equipment is any apparatus, appliance, cable, conductor, fitting, insulator, material, meter, or wire:

- (a) used for controlling, generating, supplying, transforming, or transmitting electricity at a voltage greater than extra low voltage; or
- (b) operated by electricity at a voltage greater than extra low voltage; or
- (c) that is, or that forms part of, a cathodic protection system.

Electricity Act means the *Electricity Act 1996* (SA).

Electricity Regulations means the *Electricity (General) Regulations 2012* (SA) made under the *Electricity Act*.

electricity legislation means the *National Energy Retail Law*, *National Energy Retail Regulation*, *National Energy Retail Rules* (as defined in the *National Energy Retail Law*), *Electricity Act*, *Electricity Regulations*, the *Essential Services Commission Act* (SA) and regulations, standards, codes, protocols and rules made under those Acts.

financially responsible retailer, for *premises*, means the *retailer* who is the financially responsible market participant responsible for the premises under the *NER*.

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

insolvency event includes the appointment of a receiver, administrator, liquidator or similar person, a compromise, arrangement, official management, winding-up, dissolution, cessation of business, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy or any similar procedure or where applicable, changes in the constitution of any partnership or person.

interest rate means the Westpac Banking Corporation corporate overdraft reference rate as at the due date for payment plus a margin of 2% per annum.

large customer means a *business customer* who consumes energy at *business premises* at or above the *upper consumption threshold*.

market prices means the prices and charges set by us (and amended) from time to time, being the prices and charges we, in our sole discretion, determine are necessary to recover our costs of acquiring electricity in the *National Electricity Market* and selling that electricity to you, plus a reasonable margin, as published from time to time on our website at <https://www.agl.com.au/terms-conditions/contracts-rates-large-business?zcf97o=vix3ap>

metering charges means all metering costs incurred by us in relation to the provision of *metering equipment*, and any metering installation and the collection and distribution of the data from that equipment.

metering equipment means equipment installed (or to be installed) to measure, record and in certain cases forward the data relating to the amount of electricity delivered to a premises.

metering data has the meaning given under the *National Electricity Rules*.

negotiated connection contract means a *customer connection contract* between a *customer* and a *distributor* that is taken to be entered into under section 78 of the *National Energy Retail Law*.

National Electricity Law has the meaning given to the term National Electricity (South Australia) Law in the *National Electricity (South Australia) Act 1996* (SA).

National Electricity Market has the meaning given in the *National Electricity Law*.

National Electricity Rules has the meaning given under the *National Electricity Law*.

National Energy Retail Law means the law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* (SA), as applied in the State or Territory in which your *premises* is located.

National Energy Retail Regulation means the Regulation made under section 12 of the *National Energy Retail Law (South Australia) Act 2011* (SA) and Part 11 of the *National Energy Retail Law*.

premises means the address at which *customer retail services* or *customer connection services* (as the context requires) are provided to you and, to avoid doubt, may include your electrical installation.

residential customer means a *customer* who purchases energy principally for personal, household or domestic use at a *premises*.

retailer authorisation means a retailer authorisation issued under Part 5 of the *National Energy Retail Law*.

retailer means a person who is the holder of a *retailer authorisation*.

small customer means a *customer* who is a:

- (a) *residential customer*, or
- (b) *business customer* who consumes energy at *business premises* below the *upper consumption threshold*.

supply network means a system, or part of a system, of electric lines, substations and associated equipment, other than a transmission grid, for distributing electricity to *customers*, whether or not generating plant is connected to it.

upper consumption threshold means the upper consumption threshold determined in accordance with section 6 of the *National Energy Retail Law*.

Other grammatical forms of words defined in the dictionary are taken to have a corresponding meaning.

2. Interpretation

In this Statement, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this Statement;
- (b) words importing the singular include the plural and vice versa;
- (c) all references to 'include' or 'including' are non-exhaustive and do not imply any limitation;
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporation and any governmental agency;
- (e) a reference to a clause or schedule is to a clause or schedule of this Statement;
- (f) a reference to any statute, regulation, proclamation, order in council, ordinance, bylaw or rule, includes all statutes, regulations, proclamations, orders in council, ordinances, by-laws or rule varying, consolidating, reenacting, extending or replacing them. A reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws or rules issued under that statute;
- (g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- (h) a reference to a person includes that person's executors, administrators, successors, substitutes (including without limitation, persons taking by novation) and permitted assigns;
- (i) a reference to a person includes that person's officers, employees, contractors, agents or other representatives;
- (j) a period of time which:
 - (i) dates from a given day or the day of an act or event is to be calculated exclusive of that day; or



- (ii) commences on a given day or the day of an act or event is to be calculated inclusive of that day; and
- (k) an event which is required under this Statement to occur on or by a stipulated day which is not a business day may occur on or by the next business day.