



AGL Energy Limited

T 02 9921 2999

F 02 9921 2552

[agl.com.au](http://agl.com.au)

ABN: 74 115 061 375

Level 24, 200 George St

Sydney NSW 2000

Locked Bag 1837

St Leonards NSW 2065

Director, Energy Consumers and Competition Policy  
NSW Department of Planning and Environment  
GPO Box 39  
Sydney, NSW 2001  
Submitted via email: [energy@planning.nsw.gov.au](mailto:energy@planning.nsw.gov.au)

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Dear Energy Consumers and Competition Policy Team,

**Protecting Consumers in a Changing Energy World, Discussion Paper, November 2017**

AGL Energy (AGL) welcomes the opportunity to respond to the New South Wales Government Department of Planning and Environment's (NSW DPE)'s Discussion Paper, Protecting Consumers in a Changing Energy World, November 2017 (Discussion Paper).

AGL is one of Australia's leading integrated energy companies and largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources. AGL is also a significant retailer of energy, providing energy solutions to over 3.6 million customer accounts throughout eastern Australia.

AGL is continually innovating our suite of distributed energy services and solutions for customers of all sizes (residential, business and networks). These 'behind the meter' energy solutions involve new and emerging technologies such as energy storage, electric vehicles, solar PV systems, digital meters and home energy management services delivered through digital applications.

The Discussion Paper is a timely consideration of consumer protections in the evolving energy landscape. Customers are playing an important role in the energy market transformation, driving a shift away from the traditional linear electricity supply chain, to a more decentralised and bi-directional market. In addition to the one-in-four households across Australia with solar PV installations, a proliferation of more advanced distributed energy resources (DER) (digital metering, smart inverters, energy storage, energy management systems, household appliance with smart controls etc.) are now entering the consumer market. These distributed technologies offer new opportunities for customers to actively manage their energy use and to share in value beyond the home, whether by 'sharing' energy with peers or participating in programs which support the operation of the network or the wholesale market. These developments are affecting grid utilisation and fundamentally changing the way in which consumers interact with the electricity grid. Every consumer should be given the opportunity to engage and obtain the benefits of evolving energy markets. There is a shared responsibility for service providers, governments, and the community sector to ensure customers in financial hardship are not prevented from actively participating in the evolving energy market.

In AGL's view, the centrality of customers' unique preferences and expectations is an imperative that will drive the future of energy in Australia. Accordingly, it is essential that the consumer protection framework is fit-for-purpose in this changing energy landscape.



## Preferred regulatory approach

In AGL's view, a carefully coordinated national approach should be taken to effect the necessary energy market reforms to address the inception of new technologies, innovation and associated market changes. Such an approach maximises certainty for consumers and industry and reduces unnecessary regulatory overhead caused by duplication, overlap or divergent state-based requirements.

As the Discussion Paper acknowledges, significant work is already being progressed in this area by the Council of Australian Governments (**COAG**) Energy Council's Energy Market Transformation Project Team, the Australian Energy Market Commission (**AEMC**) and the Australian Energy Regulator (**AER**).

AGL notes the concern raised in the Discussion Paper that technology and business models are moving at a different pace to national reforms, particularly in the area of consumer protection. Nevertheless, AGL remains firmly of the view that national reform provides the best option to develop appropriate regulatory settings. The energy landscape is still evolving. AGL considers that implementing regulation around consumer protections requires careful thought to avoid the risk of stifling innovation through inconsistent state-based regulation or insufficiently future proofing regulations.

The Discussion Paper also observes that national reforms do not address matters which are solely the responsibility of the NSW Government noting, for example, that national reform cannot address the issue of electrical safety which is an issue that is within state responsibility. The Discussion Paper identifies safety, reliability and affordability as predominantly state-based concerns, and special protections for vulnerable customers as a mix of state based and national laws. While this analysis reflects state based regulatory arrangements for aspects of these issues, it ignores the ongoing work that is already in progress at a national level that will inform state based regulatory arrangements. These important national reform processes often involve state regulators in their development. AGL would urge the NSW DPE to work with other stakeholders to ensure the progression of a nationally consistent fit-for-purpose framework.

There are several areas of interaction between the AER, AEMC and COAG work currently in progress and the issues discussed in the Discussion Paper. One example is protections for consumers and communities when disconnecting from the grid. COAG's Energy Market Transformation Team (**EMT**) is developing a proposal for changes to the national framework to address regulatory gaps for transferring from grid connected energy services to stand-alone power systems and relevant regulatory arrangements.<sup>1</sup> This work will feed directly into questions in the Discussion Paper concerning consumer protections when communities, or the sections of the community, elect to go off grid.<sup>2</sup> Consequently, AGL recommends that the issues identified in this Discussion Paper are further explored when the work currently underway by COAG EMT, AER and AEMC is more fully developed and can provide an evidence base on which the NSW Government can act.

## Guiding principles for consumer protections in a changing energy world

More broadly, AGL observes that the consumer protection framework requires an overhaul to adapt to the changing energy landscape described above.

Best practice regulation advocates for flexible frameworks that adapt to a market's stage of development. The current consumer protection regulatory framework was developed around twenty years ago to support the delivery of an essential service via a one-way flow of energy (from generator to home/business premise) through a centralised market structure. Regulations focussed on setting rigid rules that supported the

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<sup>1</sup> COAG Energy Council Energy Market Transformation Team, Bulletin 5, July 2017

<sup>2</sup> Discussion Paper, page 15.



delivery of a centralised and homogenous service. Consumers are now using digital and social technology to transform energy delivery, exploring value-add services, such as energy management, interacting with their retailer through multiple channels, and expecting differing levels of information to make informed decisions. The current regulatory framework was not written in an environment to support a more proactive and digitally savvy consumer and the wider energy management services they desire.

Identifying appropriate consumer protections for customers choosing alternative energy services therefore require careful consideration. The Discussion Paper, when evaluating consumer protections for alternative energy services, often focuses on the uneven treatment of services by existing regulation and seeks to identify gaps in protections. AGL considers that emerging alternative services requires a fit-for-purpose consumer protections framework that is driven by consumer needs in this environment rather than the extension of legacy legislation.

A fit-for-purpose consumer protection framework for alternative energy services should be consumer-focussed, nationally harmonised, technology neutral, and provide an appropriate safety net for consumers without impinging on the development of new, innovative energy services. Further, the framework should enable AGL, and other traditional energy participants and new entrants, to offer products and services that consumers value.

AGL has consistently advocated that the consumer protection framework should be developed with a number of core guiding principles in mind<sup>3</sup>. These include:

- **Access to energy.** Ensuring that the basis on which customers will have access to energy from new energy services is made clear, including arrangements for life support customers and dispute resolution;
- **Choice.** Promoting free and informed consumer choice. This includes not constraining customer choice even when that results in a departure from the service levels and the full suite of protections that would apply when electricity is taken from the interconnected system;
- **Flexibility:** Ensuring the regulatory framework is flexible enough to accommodate the emergence of new alternative energy services; and
- **Competition:** To the extent feasible, price and service discipline for new services should be driven by competition rather than new regulatory mechanisms.

In AGL's view these guiding principles usefully address the key focus areas raised in the Discussion paper, namely security and reliability, affordability, and protections for small and vulnerable consumers. We also consider that incorporating these guiding principles into the regulatory framework will ensure that it serves the National Electricity Objective.

## Concluding remarks

There is significant ongoing work at a national level that is focused on the protection of consumers. AGL recommends that this consultation is progressed in line with the national reform work currently taking place, particularly the COAG Energy Market Transformation Project driven work on the development of a Behind the Meter (BTM) industry code, to support a nationally consistent outcome that supports energy sector transformation. We would welcome the opportunity to continue to contribute towards this important discussion.

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<sup>3</sup> For example, AGL, Submission in response to the Energy Market Transformation Team's Stand-alone energy systems in the Electricity Market consultation on regulatory implications, August 2016 (4 October 2016), Available at <http://aglblog.com.au/2016/10/frameworks-for-stand-alone-energy-systems-micro-grids/>



Should you have any questions in relation to this submission, please contact Brigid Richmond on 03 8633 6631 or [brichmond@agl.com.au](mailto:brichmond@agl.com.au).

Yours sincerely,

(Signed by email)

Con Hristodoulidis  
Senior Manager Regulatory Strategy