



4 February 2011

Khayen Prentice
Regulatory Review – Smart Meters
Essential Services Commission
Level 2, 35 Spring Street
Melbourne VIC 3000

Email: khayen.prentice@esc.vic.gov.au

Dear Ms Prentice,

Smart Meters Regulatory Review – Capacity Control and Verifying Bills

AGL Energy Limited (AGL) welcomes the opportunity to comment on the Smart Meters Regulatory Review - Capacity Control and Verifying Bills Issues Paper (Issues Paper) released by the Essential Services Commission (Commission) in December 2010.

It is AGL's understanding that the supply capacity limiting functionality and load management services in Victoria are not mandated services being provided as part of the initial rollout of smart meters. It is our view that any consultation undertaken by the Commission should be restricted to the capability of the smart meters as documented within the Advanced Metering Infrastructure-Minimum AMI Service Levels Specification (Victoria) September 2008 Release 1.1:

During the period of the rollout, the focus of the AMI Program will be on deployment of AMI systems and implementation of the following capabilities:

- *half-hourly interval data;*
- *remote reading of AMI meters;*
- *remote de-energisation; and*
- *remote energisation¹.*

Retailers will not have the mechanism to request meter settings to support any supply capacity limiting and load management offerings to a customer. Nor, if requested by a retailer, are there any legislated service levels for distributors to adhere to a retailer's request. It is our understanding that the concept of supply capacity limiting and load control are services that may be introduced once the National Smart Meter Framework (NSMF) is in place and supported by the appropriate consumer protections being considered as part of the National Electricity Customer Framework (NECF). It should be noted that even the NECF has not progressed with regard to smart metering, pending the finalisation of the NSMF in 2013. As such, we consider consultation on this Issues Paper to be premature.

We have provided further comments around the Issues Paper in the Appendix.

¹ Advanced Metering Infrastructure-Minimum AMI Service Levels Specification (Victoria) September 2008 Release 1.1, <http://new.dpi.vic.gov.au/energy/projects-research-development/smart-meters/service-levels> (accessed 4 February 2011).

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Should you have any questions in relation to this submission, please contact myself on (03) 8633 7440 or Monique Smith, Regulatory Adviser on (03) 8633 7935 or at MSmith@agl.com.au.

Yours sincerely,

A handwritten signature in blue ink that reads 'N Wallis'.

Nicole Wallis
Manager Retail Markets Regulation

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APPENDIX

Regulation of load control and supply capacity control products for purposes other than credit management

Issues for comment

The Commission seeks stakeholder comments on:

- how will cutoff limits be set and agreed?
- for how long should supply be cut off before restoring?
- Once restored, should the power remain on for a guaranteed period before being subject to cutting off again?
- Should there be limits for cutoffs in terms of how frequently and how many times in total?
- possible health and safety risks to consumers
- safeguards for customers on life support
- any potential for customers to manually override an automatic cutoff under supply capacity control
- how to ensure that supply capacity control is used only for purposes other than credit management
- ensuring that offers of supply capacity control include making customers adequately aware of the disadvantage they will experience by using this product
- what should be done if a customer agrees to have supply capacity control and subsequently suffers financial difficulty?
- for how long should arrangements about supply capacity control run? (e.g. for one year? For the life of the contract?)
- the customer's ability to cancel a supply capacity control arrangement
- could supply capacity control arrangements be part of a standing offer?
- privacy considerations.

Supply Capacity Control (SCC) and Load Control (LC) are complex components of a market product. As such, AGL understands the need for any supply capacity and load management products to be subject to a greater degree of explanation than other retail products. We consider it imperative that any market contracts which include the SCC and LC are comprehensive, complete and contain all appropriate information, including any applicable caveats. Existing or additional consent requirements will ensure the customer fully understands the SCC and LC products prior to entering into an agreement. In our opinion, these customers will require a comprehensive understanding of the entire product, irrespective of whether a term is a perceived benefit or detriment.

Retailers have restrictive explicit informed consent requirements whereas a Data Network Service Provider (DNSP) gains implied consent via its network tariffs. To implement a new network tariff, a DNSP must seek approval from the Australian Energy Regulator (AER) three months prior to the time its implementation is sought. The AER reviews the tariff and is able to approve the implementation of the network tariff without any open consultation. We consider this presents considerable issues with regard to consumer protection as this effectively provides a DNSP with the mechanism to implement SCC agreements without the consent of the customer. This practice could prove extremely unfair to customers.

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AGL notes that as part of the National Smart Metering Program, the Energy Networks Association, Energy Retailers Association of Australia and the Consumer Roundtable have agreed to General Policy Principles (Principles) which will guide the development changes to the National Electricity Rules. These Principles have been outlined in the National Smart Metering Program Access and Contestability Principles April 2010 Release Paper.² AGL encourages the Commission to utilise these Principles when considering SCC and LC. Of particular relevance, the Principles include a requirement that all parties dealing directly with a customer must be bound by a marketing code of conduct and obtain explicit informed consent for any product or service.

For an SCC or LC to work in practice, we consider that the relationship, roles and responsibility of all parties (i.e. customer, retailer and DNSP or other third party providers) need to be clearly defined and agreed. We envisage that this would include, as a minimum, the agreement by the customer to have their load curtailed, the capacity threshold (if SCC), to what specific appliances it applies (if LC), during which periods of time, the notice to be provided of curtailment (if any), the period of curtailment, and the manner of varying the agreement to curtail in the first place, or the supply capacity level. In addition, possible health and safety risks and safeguards for customers on life support would be addressed within the agreement.

The Principles include a requirement that all parties must comply with Communications and Data Security and Load Management and Network Security protocols as prescribed under a Head of Power in the National Electricity Rules. AGL strongly urges the Commission to adopt the same approach.

AGL believes that a DNSP should not be able to enter into an arrangement directly with a customer without explicit customer consent. Customers currently hold no financial relationship with a DNSP and it is difficult to justify any changes to the status quo. It is our view that the retailer has the primary responsibility for providing energy and customer services. Therefore any agreements entered into for the provision of SCC will impact the retailer and customer. It is critical to develop a structured approach to this issue because the customer, retailer and DNSP will need full awareness of their respective rights and obligations. The ability to successfully offer SCC products will be compromised if DNSPs or other third party providers are allowed to enter into separate load or supply shedding agreements directly with customers.

A customer currently has the ability to cancel any agreement. We believe the agreement between customer and retailer to enter into a SCC arrangement will likely be a fixed term contract, with SCC being a feature of the agreement. As with other fixed term contracts, the agreed damages term would be outlined prior to the customer providing consent to enter into the agreement. A retailer should be able to apply a fair and reasonable pre-estimate of the damage the retailer would incur if the customer breaches their agreement, consistent with the requirements of clause 31 of the *Energy Retail Code (January 2011)*. If the customer were to cancel the arrangement, they would incur the applicable Early Termination Fee or any other agreed damages as consented to.

AGL contends that at the time of entering into a contract with a customer, it is impossible to ascertain whether the customer will experience hardship at any point during the term of the contract. Like all current customers, regardless of their contract setup, they will have access to the policies and procedures designed to assist vulnerable customers. SCC contracts should be treated in the same way as any other contract. As per current practise, every hardship case must be assessed on an individual basis. Given its delicate and somewhat complex nature, we believe it is not possible to mandate a blanket approach to hardship.

² National Smart Metering Program Access and Contestability Principles April 2010 Release Notice, <http://share.nemmco.com.au/smartmetering/Document%20library/NSMP%20access%20and%20contestability%20principles%20and%20release%20notice%20-%202010%20May%202010.pdf> (accessed 4 February 2011).

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We consider that sufficient protections are already in place to protect customers in hardship. Pursuant to clause 2.2(b)(xv) of *Guideline No. 21 Energy Retailers' Financial Hardship Policies (January 2011)*, if a customer is in hardship, we must offer the customer the most appropriate tariff available. An assessment of the most appropriate tariff will determine whether the SCC is appropriate and should be utilised by any particular customer experiencing hardship. Given that existing hardship regulations adequately protect customers, there is no need, in AGL's opinion, to impose any further obligations.

It is our understanding that third parties are currently providing load control agreements. Customers under an agreement with a third party provider should be made aware by the third party provider that they will not be subject to the protections afforded by the *Energy Retail Code (January 2011)*. We consider that customers should have the choice to install third party supplied products or appliances which have some form of load control feature, where they see fit. As a condition of this, however, we believe that a third party should be required to inform a retailer and distributor if there is an active load control device in use. This would assist retailers and distributors in the effective management of their obligations set by the National Electricity Rules. AGL encourages the Commission to consider the General Policy Principle which requires that all parties that deal directly with a customer have a protocol for dealing with the relevant retailer and DNSP.

The mechanism for ensuring that supply capacity control is used only for purposes other than credit management already exists. Clause 12A of the *Energy Retail Code (January 2011)* currently prohibits Supply Capacity Control being offered until 2014. Post 2014, AGL envisages that this issue will again be addressed and this clause will likely be expanded.

Distributor requirements to leave customers the final accumulation meter read when they changeover the basic meter to a smart meter

Issues for comment

The Commission seeks stakeholder comments on:

- whether distributors should be required to provide customers with a copy of the final accumulation meter read at the time when the basic meter is replaced with a smart meter, and
- how this might be done.

AGL understands the importance of providing customers with sufficient information to enable the customer to verify their bills. The electricity distribution businesses commenced the process of installing Smart Meters throughout Victoria in September 2009. To date over 200,000 Smart Meters have been installed with an average of nearly 4,000 per week. This information has not been provided to the customers who already have received a Smart Meter. We fail to see how the distributor's providing the customer with a copy of the final accumulation meter read at the time when the basic meter is replaced with a smart meter will provide the customer with the ability to monitor their electricity usage. The retailer receives the read associated with the removal of the accumulation meter and displays this read on the customer's next bill.

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Inclusion of total accumulated consumption read corresponding to the start of the billing period on customers' bills for smart meters

Issues for comment

The Commission seeks stakeholder comments on:

- the desirability of including in smart meter customers' bills the consumption read corresponding to the start of the billing period and
- the practicality of including in smart meter customers' bills the consumption read corresponding to the start of the billing period.

Current regulations for an accumulation meter require the current and previous meter readings to appear on a customer's bill. For an accumulation meter, the usage is calculated by subtracting the previous read from the current read.

We note a start reading was included on smart meter bills in order to maintain the existing information provision which is enjoyed by customers with basic accumulation meters. We maintain, however, that consideration should be given to the difference in how consumption is calculated for this type of meter. For a smart meter, the calculation of the usage is not achieved by subtracting the previous read from the current read, it is achieved by totalling the half hourly intervals of data for the billing period, which includes estimated and substituted data.

If a start and end read is required to be published on the bill, customers will need to be educated about the inherent inaccuracy in subtracting the two reads to calculate their consumption. The regulations provide retailers with a choice to either remove or display substituted/estimated readings where they total over 48 hours. It is therefore unlikely that there will ever be a consistent accumulation value that a consumer can use to validate their bill. AGL notes the value in displaying start and end reads on bills for accumulation meters, but considers that the Commission should review the requirement to display these reads for smart meters, as the inconsistency of the data is only likely to cause more confusion for customers.

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