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Compliance and enforcement

Essential Services Commission

Level 37, 2 Lonsdale Street

Melbourne Victoria 3000

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AGL Energy (AGL) welcomes the opportunity to provide feedback on the Essential Services Commission of Victoria's (the Commission's) Draft Decision, Compliance and Enforcement Policy.

AGL supports the Commission's aim to amend the policy to streamline the compliance and enforcement process to deliver more efficient compliance outcomes. Specifically, we support the Commission's proposed approach to align with the Australian Energy Regulator's (AER's) Compliance and Enforcement – Statement of Approach, which sets out a broad approach to compliance and enforcement, including identifying the tools that may be used to promote self-compliance with the energy regulatory framework.

We also support the Commission's proposals to:

- Take a cooperative approach to address non-compliance.
- Share 'best practice' in the first instance over a formal determination to clarify the standard of conduct expected.
- Take a risk-based approach, focusing efforts towards conditions which give rise to (or risk) harm to consumers, which promote the long-term interests of Victoria energy consumers.
- Undertake targeted enforcement actions.

AGL notes the Commission states that their expectation is that 'a regulated entity meets its obligations is a matter for the individual entity and it is not the Commission's role to provide legal advice to regulated entities'. However, we believe that there needs to be ability for a retailer to seek clarification from the Commission on a new or change obligation during the period after a final decision and effective date of implementation to get the right outcomes, and ensure best practice is clear.

Finally, a guiding principle of the Commission's proposed approach is 'responsiveness', and the Commission state that they will 'undertake their work in a timely manner to ensure they limit uncertainty for affected stakeholders'. As the Draft Decision notes on page 4, the current policy is no longer fit for purpose and has led to occasions where the Commission has taken too long in their requests for further information on breaches that have been reported. Specifically, it is AGL's preference the Commission seeks to meet their proposed responsiveness guiding principle by taking action in a reasonable timeframe, especially in the event that the Commission is going to go down the enforcement path or request further information.

If you would like to discuss our comments further, you can contact [REDACTED]

Yours sincerely,

*(signed for email transmission)*

Elizabeth Molyneux  
General Manager, Energy Market Regulation