



8 February 2019

Essential Services Commission  
Level 37, 2 Lonsdale Street  
Melbourne, Victoria 3000

By email: [compliance.reporting@esc.vic.gov.au](mailto:compliance.reporting@esc.vic.gov.au)

## Energy Compliance and Enforcement Policy

Alinta Energy Retail Sales Pty Ltd (**Alinta**) welcomes the opportunity to provide comment on the Essential Services Commission (**Commission**) "Energy Compliance and Enforcement Policy" Revised Draft.

Alinta is an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW, including 1,700MW of gas-fired generation facilities and 1,070MW of thermal generation facilities, and in excess of 1.2 million electricity and gas customers, including more than 620,000 in east coast markets. As such, we are well placed to provide comments on the Revised Draft.

Any compliance and enforcement policy must be transparent and consistently applied. Participants need clear direction and certainty around the application and assessments of their activities against their obligations. Likewise, any compliance and enforcement policy that includes detail of the enforcement pathway must ensure that timely compliance and enforcement decisions are made to allow ongoing clarity around compliance and that any potential compliance issues are identified and dealt with swiftly, to avoid prolonging any potential consumer detriment.

Current experience has been that the inclusion of a compliance and enforcement pathway may have resulted in delays to compliance and enforcement decisions.

Alinta is supportive of initiatives that introduce efficiencies into the compliance and enforcement process, however these need to be balanced with ensuring there is confidence in the process and assessment criteria that is being applied, and that it is being applied consistently, when making compliance assessments.

The guiding principles of Responsiveness, Proportionality, Consistency and Accountability are appropriate principles to include in any policy. The evidentiary

basis on which the Commission can demonstrate they have met these guiding principles then becomes key. The policy should include a basis for how the Commission will measure, through the operation of the policy, that they have met these principles.

In promoting and securing compliance the Commission should be comfortable in providing direction to participants on their level of compliance with prescribed obligations. Given the Commission will be assessing a participant's level of compliance when there is a compliance matter to review, it stands that the Commission is also the best placed to provide direction on whether business practices or proposed forms of conduct are or are not compliant.

Communication with participants during a compliance review / assessment is critical to ensuring the timely resolution and implantation of rectification actions, in managing potential non-compliances.

The Commission needs to ensure that it maintains active lines of communication and information sharing during any compliance and enforcement activities. This includes communication on potential actions under consideration during any assessment.

Participants must be afforded sufficient opportunity to meet with and provide submissions during any compliance review and assessment

Should you have any questions or wish to discuss any aspect of our submission please contact [REDACTED]

Yours sincerely



**Shaun Ruddy**  
Manager National Retail Regulation