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Australian Energy Market Commission

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Gas Compensation and Dispute Resolution Frameworks

AGL Energy (AGL) welcomes the opportunity to respond to the Australian Energy Market Commission (AEMC) Gas Compensation and Dispute Resolution Frameworks draft determination.

About AGL

Proudly Australian for more than 185 years, AGL supplies around 4.3 million energy and telecommunications customer services. AGL is committed to providing our customers simple, fair and accessible essential services as they decarbonise and electrify the way they live, work and move.

AGL operates Australia's largest private electricity generation portfolio within the National Electricity Market, comprising coal and gas-fired generation, renewable energy sources such as wind, hydro and solar, batteries and other firming technology, and gas production and storage assets. We are building on our history as one of Australia's leading private investors in renewable energy to now lead the business of transition to a lower emissions, affordable and smart energy future in line with the goals of our Climate Transition Action Plan.

New gas compensation framework

AGL supports the creation of a new compensation framework that is separate from the current dispute resolution arrangements. While we support modelling the arrangements on the expert determination framework for the assessment of electricity compensation claims for consistency, we consider that framework has several flaws which should not be adopted, including the failure to include opportunity costs.

Opportunity costs should be eligible for compensation as they are a component of SRMC

The draft rule limits the costs that are eligible for compensation to direct costs only to incentivise market supporting behaviour before an AEMO direction, with the concern that broadening the categories of costs that are eligible for compensation may pose the risk of creating undesirable incentives in favour of a directed state. While we accept this concern in principle, we note that it is not applicable to opportunity costs, which should be included as a cost that is eligible for compensation. Opportunity costs are a key component of a participant's short-run marginal costs and are a legitimate driver of participate behaviour and therefore must be included if the compensation framework is to reflect market reality. By excluding opportunity costs, the AEMC had determined that participants should be compensated at a level below their short run marginal cost, which penalises directed participants and weakens their ongoing viability. The AEMC incorrectly notes that allowing only for compensation of direct costs allocates risk to those best placed to manage the risk of a direction. In fact, it is only by considering opportunity costs that a participant can be driven by the forces of demand and supply and participate in the market as it is designed to operate. We consider opportunity costs to be a fundamental component of costs, and therefore also do not accept the rationale that opportunity costs should be excluded because they may be too difficult to calculate. We do however support the AEMC's conclusion that there be no cap to compensation claims.

For further information on AGL's view on the interaction of SRMC and opportunity costs please see our submission to the AEMC *Review into electricity compensation frameworks* which we will be submitting on 1 February.

A new civil penalty provision is not required

AGL does not support the creation of a new civil penalty provision to deter unwanted behaviour in response to an AEMO direction. We consider that the indirect application of a behavioural standard through the compensation determination process will be sufficient to support appropriate behaviour in response to an



AEMO direction. AEMO directions should be last resort mechanisms as they represent an intervention in the normal operation of the market and a failure of market design or operation. They are onerous, complex, and may be prone to overuse. We therefore consider that punitive civil penalties are not appropriate in these circumstances and should only be introduced if there is clear evidence that unwanted behaviour in response to AEMO directions is actually occurring.

A tenfold increase of the minimum claim threshold to \$50,000 is unwarranted

The AEMC has suggested that the minimum compensation claim threshold should be increased from \$5,000 to \$50,000 to reflect the cost of independent expert assessments and to ensure the efficiency of the compensation framework. We consider a tenfold increase is too high and ignores the fact that directions reflect a failure of market design or operation and should be infrequent. We consider that allowing the market operator to impose costs of up to \$50,000 on participants without recourse will undermine the efficiency of the market. We note that given opportunity costs are excluded in the current draft rule, the real costs to participants of a claim that is only assessable as \$50,000 in direct costs could be much higher and well below their short run marginal cost. We suggest a \$20,000 threshold or less would be more appropriate and that efforts to reduce directions compensation claims should be focussed on reducing the incidence of directions.

If you have queries re this submission, please Anton King on (03) 8633 6102 or aking6@agl.com.au.

Yours sincerely,

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