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Australian Energy Market Commission – Consumer protections in an evolving market – Issues Paper

AGL Energy (**AGL**) welcomes the opportunity to comment on the Australian Energy Market Commission's (**AEMC**) issues paper for consumer protections in an evolving market.

Our business strategy is centred on three strategic priorities - growth, transformation and social licence.¹ From a customer perspective, this means our focus on transforming the customer experience so that our customers become advocates of AGL. In the first instance we wanted to understand the type of services and how consumers would like to be communicated with. We found the way consumers buy energy, other essential services and data is converging with a focus on digital engagement.

We therefore re-directed our focus on customer engagement with opportunities to deepen our relationship with our customers through their experience especially as energy and data converge. As appliances become smart and batteries communicate with the grid, we want to develop our services and products to meet these expectations. This also allows us to focus on providing multiple services to customers, such as telecommunication and energy, with our recent acquisition of Southern Phone Company.² The way customers buy energy and data packages and other essential services is converging in the digital world. Our research shows that more than 60% of customers believe in the convenience and value offered by energy and data packages.³

In this transformed customer engagement, digitally enabled and product/service bundled world we believe current NECF arrangements are no longer fit for purpose. NECF arrangements are a by-product of the changes to the energy sector when Government's privatised and separated the value chain of the energy sector in the late 1990s. In that period, energy consumers were by enlarge passive users of energy that flowed into their homes through accumulation meters and communication occurred via postal mail or large Call Centres. The prescriptive and process-based nature of the consumer protection regulations made sense in that energy market world.

In the current energy market reality, we consider that positive outcomes for both consumers and industry can be achieved through objectives-based regulation which focuses on outcomes rather than prescription. These objectives can be centred around consumer protections principles that

¹ More information at: <https://www.agl.com.au/about-agl/who-we-are/our-strategy>

² See [AGL media announcement on acquisition of Southern Phone Company](#), 19 December 2019

³ See [AGL Investor Day presentation](#), 30 October 2019, p.14.



allow for flexibility in business models and energy service delivery methods but ensuring consistency for customers irrespective of how they choose to receive or engage with their energy.

The NECF should be designed in light of the evolving energy market to move away from prescription and towards an outcomes-based model. This would help remove constricting or outdated requirements that constrain traditional retailers in offering new and innovative developments for customers, while ensuring a level of consistency for the customer experience.

We also know that the way customers are receiving and engaging with their energy is diversifying. Technology agnostic regulations will help ensure retailers are not limited in how they can engage with customers across a range of new and emerging technologies (for example, SMS, digital app notifications etc).

Moving towards objectives will also benefit the diversification of services provided to retailers across different sectors, whether it is finance, data, telecommunications or more.

By restructuring the NECF this way, it could then be appropriate to cover a range of new energy service and product providers – making the energy space a more consistent and competitive environment. We do not believe traditional retailers should be constrained by obligations where new and diverse market entrants are not.

As businesses diversify and new entrants disrupt the market, a principles based model will ensure there is a consistent customer experience (e.g. either across a telecommunication/energy retail experience, a non-retailer new entrant demand response service, a micro-grid, embedded network, etc), expansion of energy services needs to be matched with an appropriately funded dispute resolution mechanism that is consistent for customers.

NECF could therefore be redefined to cover both the supply, and disruption, of energy supply to customers (helping future proof).

We explore these concepts further in the below submission, which provides a combined response to both issues' papers in to two parts 1) traditional energy and 2) new energy.

If you have any questions, please contact Kat Burela at kburela@agl.com.au or 0498001328.

Yours sincerely

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Executive summary

Policy and regulation will likely always struggle to keep up with the pace of change occurring in the energy sector and the economy more broadly. Policy uncertain and divergences across different jurisdictions create additional complexities for businesses in how they operate, diversify and evolve with the changing expectations of consumers and technological advances.

As the AEMC issues papers acknowledge, there has been a massive shift with technology and business models and how customers engage with their energy supply. As a result, there are clearly tensions between how technology is enabling beneficial bottom-up and decentralised models of service delivery, and how traditional retailers are ensuring the protection of different groups of customers, particularly vulnerable.

In turn, this can impact economies of scope that may be important to economies of scale and the ability to cost-effectively provide services to customers – both as a traditional retailer and a new energy product or service business. Therefore, the focus needs to be on understanding and incentivising innovation which is associated to the modernisation of the energy supply chain, and how to deliver the innovation necessary to achieve benefits for both consumers and the market.

How customers engage with energy, and how their supply may be controlled, disrupted or enhanced by external parties (such as their retailer, distributor or other) increasingly matters. This also works in the other direction, where if an energy provider (or energy service provider) does not require a license due to the nature of how they provide their energy, then they may not offer the same protections to customers and could therefore offer a cheaper product.

We suggest that there should be not differentiator for customers on the protections they receive, whether they engage with the grid or generate in home with agreements with external parties. The essential nature of energy, in the way it is used in the home by customers (to turn on lights, and heat spaces), it is the access and flow of energy that is changing.

We therefore believe that the AEMC should seek to improve the existing NECF by moving away from prescriptive rules and towards an outcomes-based structure – and seek to expand the scope to those who provide energy or can disrupt customer energy (e.g. demand management services).

AGL Customer Protection Principles

The following are principles describe a high-level customer centred approach that protects customer's access to essential services and enables their participation in new services and may help guide the AEMC in making recommendations to streamline the NECF.



1. **Access** - All customers have a right to access energy when and where they need it, on terms that are fair and reasonable.
2. **Informing customers** - Consumers have access to transparent, understandable and relevant facts about energy services
3. **Privacy** - Customer data is collected, used and securely protected in a manner consistent with community expectations.
4. **Vulnerability** - ensure vulnerable customers maintain access to essential energy supply.
5. **Customer led markets** - Consumers' needs are reflected in the products and services developed in competitive markets
6. **Quality** - Products and services are of good quality (this includes safe, with warranty and complying with relevant Australian standards).

In addition to these general principles, AGL believe that ensuring vulnerable customers can access essential energy services and participate in the energy market is the shared responsibility of service providers, government and community services:

- **Concessions** - we encourage the review and expansion of concession access needs to go beyond retailers and embedded networks. We note that this is already being considered by the Queensland Government through their review of the National Energy Retail Laws (NERL).⁴ New understand that the NSW government is also reviewing white labelling as part of the NSW Social Code.
- **Payment plans** - if the customers supply can be disconnected or interrupted by a provide obligations regarding the provision of payment plans should be consistent.

Broader matters:

- **Dispute resolution** - the importance of consistent access and assistance through external dispute resolution needs to be available for consumers irrespective of how they get their energy. We encourage the development of a national ombudsman. This needs to be appropriately funded.
- **Oversight and enforcement** – should be managed by the AER for all types of energy service providers captured under the NECF.

Role of government

While we recognise the following matters are out of scope for the AEMC, we raise them as there are interrelated issues that impact consumer protections and experience.

- We believe there is a shared responsibility for ensuring the protection of consumers, including a role of government to provide support and assistance (e.g. through concessions, grant programs, energy efficiency schemes and so on).
- As the needs of customers change, so should government policies on what type of support customers should be provided. For example, Governments are already recognising the value of solar and other new energy services for customer (such as the NSW low income solar program)⁵.

⁴ See the [Review of Queensland Energy Legislation](#), October 2019

⁵ See <https://energysaver.nsw.gov.au/households/solar-and-battery-power/solar-low-income-households>



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- Government is also now playing a role in switching and assisting customers, such as the NSW Service program, and the recent (NSW Service), or the Order in council in Victoria⁶ which allows the Department of Environment, Water, Land and Planning (DEWLP) to collect interval meter data to provide tailored offers through the Victorian Energy Compare (VEC) website.
 - Some customers are vulnerable or experiencing financial difficulty. Not all customers will own their own home and may not be able to control the quality of materials, the energy efficiency and other matters relating to their home. This is why community VPP's can be beneficial, and why the proliferation of new energy service may mean those unable to participate may be left behind unless the government provides assistance.

Confidentiality

Some of the information contained within this submission is considered commercially sensitive and has been redacted for the public register. This includes information relating to future customer service and product strategy, internal analytics obtained through our investment in research and systems.

⁶ VIC Government Gazette S336 - Electricity Industry Act 2000 (VIC)



Part 1 – Traditional Sale of Energy

The energy market is now in a period where customer expectations are being set broadly in a digital world and we are investing to keep pace with these expectations. AGL is committed to delivering an industry-leading digital experience to drive value for our customers and ultimately to change the quality of their relationship with AGL.⁷

It is therefore important to understand the customer uptake of digital services, and the benefits that these deliver (such as the immediacy of information, the ability to click links, switch, or get assistance in real-time etc). This in turn improves customer engagement and their ability to positively participate in the energy market.

Rule-makers and enforcers must also be aware that the way retailers want to engage with their customers is also evolving. As services evolve (such as the potential to cross-offer products such as data and energy), and consumer engagement moves digital – retailers must be able to communicate in a way that is simple, informative and relevant for customers and the way they want to receive information. We note that a Digital Taskforce has been established for Department of the Prime Minister and Cabinet that is looking at ways to boost productivity through the uptake of digital technology; operating until mid-2021.⁸ This may be an opportunity for the AEMC to explore these recommendations as the Taskforce will be looking at ways to ensure all Australians can benefit from digital technology and promote productivity gains through the uptake of digital technology.

In particular, we refer the AEMC to the Organisation for Economic Co-operation and Development (OECD) report, challenges to consumer policy in the digital age.⁹ This report identifies ways the digital transformation is impacting economics and societies and what new commercial opportunities and emerging risks are arising as a result.

The following sections provide insights and examples of different areas where meaningful, and/or digital engagement is restricted or impacted by the NECF.

Understanding consumer engagement

Prescriptive regulation impacts the customer experience in a range of ways, including

- Increasing the number of communications (e.g. requiring more mandatory notices that cannot be bundled). This may result in communication overload and foster consumer disengagement.

⁷ ITNews article, [AGL Plans \\$300m digital transformation](#), August 10 2016.

⁸ See [Department of the Prime Minister and Cabinet News Centre](#), 6 December 2019

⁹ See <https://www.oecd.org/sti/consumer/challenges-to-consumer-policy-in-the-digital-age.pdf>



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- Increasing the amount of mandatory information that must be provided to a customer (e.g. reference price information, EnergyMadeEasy (**EME**) information, bill benchmarking, etc).
 - Varying tone and information provided by the retailer (e.g. some mandatory notices require mandatory wording that is overly jargonistic or unfriendly), which may foster distrust in the consumer.
 - Mandatory information not being fit-for-purpose for varying communication methods (e.g. greater uptake of mobile devices instead of desktop, use of applications, SMS, etc).

However, as customer awareness of regulatory changes has tracked at only 20%,¹⁰ a lot of the confusing or jargonistic regulatory requirements are met with distrust, or annoyance by customers who feel the retailer is trying to further complicate or convolute the energy system. It is therefore important that regulatory obligations are developed with consideration to the overall customer experience with a retailer. This includes, but is not limited to:

1. The way customer views and engages with marketing material.
2. The way offer information is displayed and accessible (e.g. basic product information documents (BPID) and reference price obligations).
3. The sales journey and the way *required information*¹¹ is provided to customers through, phone, online and third-party channels.
4. Required information also provided in welcome packs and how the consumer interacts with rights such as the cooling off period.
5. Mandatory notices and ongoing consumer engagement (including end of benefit, price change, reminder notices, planned interruptions, bills, etc).
6. Complaints and common access to dispute resolution (either internal to a retailer or external)
7. Other points of contact (e.g. payment plans, self-service meter read, engagement with metering coordinators, installers (meters or solar etc), demand management, VPP, product or service trials, BTM services etc).

The National Energy Retail Rules (**NERR**) and NERL currently considers each of these distinct experiences and the regulatory requirements around each point will differ regarding mandatory information, tone, timeframes, and even the way the information must be delivered (e.g. verbally, in writing, by preferred communication method). This approach fails to consider the encompassing customer experience.

For example, if a customer values simplicity in a sales process, but must listen to pages of mandatory information in order to provide explicit informed consent (**EIC**) – then is the cooling off period and welcome pack still necessary? A fit for purpose regulatory regime should outline the objective of a consumer’s engagement with a business through the sales experience and allow those businesses to

¹⁰ See [AGL Investor Day presentation](#), 30 October 2019

¹¹ As provided for under the National Energy Retail Rules.



innovate on how that experience is delivered. For example, the regulations can outline that consumers are entitled to clear, simple information – including the price and main conditions – to allow them to make informed purchase decisions. Retailers can then decide on how to deliver this through a combination of sales scripting, welcome packs, cooling off rights and any other mechanism/approach.

Customer welcome journey

Key principles

- Information is provided in a timely manner which enables customers to invoke their rights.
- The customer is informed of relevant information regarding their energy arrangement either before the sale, or after the sale with the ability to cancel without penalty (e.g. within the cooling off period).
- The customer experience is taken into consideration throughout the entire welcome journey, not just episodically.
- Regulations are subject to review to ensure that they remain appropriate as the market and customer comprehension evolves.

How the customer onboards with a retailer is an important step in developing a relationship with the customer and engendering trust. Our survey-based research shows that 50% of customers say that a simple joining process is important to them.¹²

It is important that retailers can provide an onboarding experience that is mindful of the customer's needs, and preferences as much as possible. For example, we invest in understanding through customer research and testing so that we ensure our communication strategy delivers the customer a consistent AGL message, tone and style so that they know when we contact them they not only know the communications is important to them, or their energy needs but that it is also easily understood.

However, as we describe below, our communication strategy at the moment is heavily influenced and built around meeting our regulatory requirements, which often leads to a complicated and industry jargon filled experience for the customer. It does not help engender trust and is not a simple process.

Phone sales

The current sales process for customers over the phone is long and tailored towards ensuring regulatory requirements are met rather than customer expectations or needs.

¹² See [AGL Investor Day presentation](#), 30 October 2019,



In meeting the EIC obligations, retailers must provide all types of required information¹³, which is lengthy and technical; covering all types of prices, charges, benefits with vary degrees of relevance to customers.

All this information is then provided to a customer upon joining through our welcome pack (which includes all relevant information about the terms and conditions, product, rights, complaints and so forth). The customer then has 10 days to decide whether the plan is right for them, and to cancel within the cooling off period.

From our experience, repeating the same information through multiple processes does not enhance the consumer experience, but rather fatigues the consumer and could ultimately lead them from future engagement with their energy provider. Thus, ultimately leading to the consumer missing out on future benefits that they value but do not want to go through the lengthy and cumbersome sign up process.

Through our post-call surveys, we receive feedback from our customers on the length and confusing sales process:

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

Digital sales

Key principles

- Be technology agnostic and allow retailers to communicate in a variety of ways (e.g. email, mail, SMS, digital app notification etc).
- Consider customer use of digital channels for accessing information (e.g. ensuring that obligations around advertising or displays are appropriate for both desktop and mobile use).

We have undertaken significant research to understand consumers' needs and therefore provide a seamless experience for customers through our online sales channels. However, when you overlay

¹³ See the National Energy Retail Rules, Section 63 – form of disclosure to small customers.



the NECF requirements, this results in a number of additional steps to meet regulatory obligations in obtaining explicit informed consent and leads to a less than optimal process from a customer experience perspective. In particular, regulations must recognise that customers are unlikely to read all terms and conditions before signing up to a product online.

For example, a report completed by the Consumer Policy Research Centre (**CPRC**) in 2019 highlighted that most customers simply click *ACCEPT* without understanding what they are consenting to.¹⁴ This report highlighted a study undertaken by Choice which found it would take nine hours to read the Terms and Conditions of Amazon Kindle¹⁵. Another study estimated that it would take an individual 244 hours a year to read Privacy Policies for each new website they visited—an average of 40 minutes a day.¹⁶

It is therefore important to re-think the prescriptive nature of the regulations with respect to sales processes. Rather than requiring specific actions and communications methods or language, the regulations should focus on the outcome consumers seek from a sales perspective. For example, the regulations can seek that consumers are provided with short, simple, and relevant information. This is more likely to increase the likelihood of it being read and ensure consumers are engaged in the sales process. Keeping customers engaged and interested is an important part of the sales journey.

As we describe below, the Retail Pricing Information Guideline (**RPIG**) and reference price obligations under the Electricity Code¹⁷ are highly prescriptive and require substantial amounts of information to be provided to a customer. While the AER undertook consumer testing for the current version of the RPIG, the recent attempt to update the RPIG by the AER was not based on any consumer testing, nor were the reference price obligations. Both the RPIG and reference price obligations fails to adequately address the changing consumer trends towards digital. We note:

- More customers are using mobile devices to browse the internet than desktop devices. We have seen an upward trend for AGL website visits being done on mobiles (approximately 10% in the last 12 months).
- Text heavy obligations including the reference price requirements and other RPIG information provisions do not fit well with customer mobile experiences.

While signups remain a higher proportion through the desktop, we are seeing an overall increase for digital services used by customers.

¹⁴ See Consumer Policy Research Centre report, [consumer data and the digital economy](#).

¹⁵ Hunt, E. (2017). Amazon Kindle's terms 'unreasonable' and would take nine hours to read, Choice says. The Guardian. Available at <https://www.theguardian.com/australia-news/2017/mar/15/amazon-kindles-terms-unreasonable-and-would-take-nine-hours-to-read-choice-says> (Accessed on 18 January 2018)

¹⁶ McDonald, A.M. and Cranor, L.F. The cost of Reading Privacy Policies. *I/S: A Journal of Law and Policy for the Information Society*. 2008; Privacy Year in Review, 4(3). Available at <http://www.aleecia.com/authors-drafts/readingPolicyCost-AV.pdf>

¹⁷ See the Competition and Consumer ([Industry Code – Electricity Retail](#)) Regulations 2019.

Reference price requirements

Reference price obligations were introduced in 1 July 2019 through the Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019 (Electricity Code).¹⁸ In addition to the Electricity Code, the ACCC developed a Guide to the Electricity Retail Code (ACCC Guide). Both the Electricity Code and the ACCC Guide provide requirements on retailers including prescription regarding advertisements. While the reference price obligations are new, they rely on old style of regulation setting (focusing on prescription and technical terms) and on traditional modes of advertising/marketing (e.g. billboards, television).

We are increasingly identifying ways in which the reference price requirements are not fit-for-purpose in a changing market. As we note above, more customers are using mobile devices, and the excessive mandatory scripting required for reference pricing is not only confusing to a number of customers¹⁹ it is also not device or product friendly and as such is not appropriate for forms of digital marketing – or for marketing across different product types.

Example

As traditional retailers seek to diversify services and products for customers, the regulations are increasingly becoming more restrictive and confusing for both regulated entities and consumers. For example, there has been a shift towards subscription energy products²⁰. The general basis for this type of product is that customers pick the size of their plan (which has differently monthly electricity allowances), and the customer can switch plans at any time if their energy usage changes. Unused energy rolls over and can be used by the customer in peak usage months (e.g. over summer or winter). This is akin to a telephone/mobile plan that many customers are familiar with.

However, these products were not designed to fit a reference price obligation and the regulatory requirements become increasingly confusing and irrelevant for customers, see for example figure 3 below on an example of information shown to a customer looking at a subscription plan online:

***Figure 1** – example of reference price information for customers through a digital sales journey.*

¹⁸ <https://www.legislation.gov.au/Details/F2019L00530>

¹⁹ Discussed further in case study 3 on end benefit below.

²⁰ See for example [Amaysim subscription energy](#), On By (by EnergyAustralia).

Your plan details

We're required by regulation to compare Easy Plan Plus against the price a hypothetical residential customer in the **Endeavour** area on a flat tariff would pay in a year if they used exactly 4600 kWh (the reference price). There is no Easy Plan Plus size that matches this usage exactly but if you were the hypothetical customer, we would offer you the Medium size option, which is **28% more** than the reference price with a lowest possible annual cost of **\$2196** for all included usage. However, based on your estimated usage, we think the size highlighted below is the most appropriate fit for your circumstances.[#]

As the example above shows, customers may be shown with information that states that there is no plan size that matches their usage; but if the customer was a hypothetical customer they would be offered the medium size option which is 28% more than the reference price. This also demonstrates that the small, medium and large usage profiles set by the AER is not particularly useful and can lead to increased complaints and customer confusion (see bill benchmarking case study below).

As retailers further diversify, such as bundling telecommunication and energy products, the regulations need to be considerate of the overall consumer experience through the sales journey (e.g. allowing for interoperability and consistency in regulatory requirements for cross-product sales). It will be incredibly difficult (as well as a poor customer experience) should retailers seek to offer a bundled service that also meets reference pricing obligations. The marketing information will not be simple and will therefore impact customer comprehension and engagement. Our customer sentiment surveys have already shown that some customers see the jargonistic language as being retailers seeking to deliberately confuse them.

EIC in a digitalised market

While AGL understands the underlying consumer protection that EIC offers with respect to informed decision making, the current EIC obligations were written for a different market dynamic environment, one that focussed on one-way flow of energy and by enlarge a consumer that was only focussed on ensuring they have an energy supplier. In the current changing dynamics were consumers are more engaged through digital means and are looking for a holistic energy, data and bundled solution to their utility needs, EIC obligations are outdated and can hinder positive consumer experiences.

For example, when we provide a notification to a customer as required by the regulations, we need the customers EIC to provide this notification electronically. While our online process now direct customers to choose between digital and postal mail communication, this has not always been the case. Email communication consent may also not be collected in phone sales (by a retailer or a third party) for a range of reasons.



Legacy customers²¹ on written communications can be harder to engage with to switch to digital due to specific restrictions under the Energy Rules and Laws which prevent retailers from moving an existing customer onto electronic communications without EIC.

The benefit for customers adopting digital platforms and solutions include the immediacy of links etc. We have previously raised this with the AEMC.²² The AEMC commented that the proposed rule change would further incentives retailers to move customers on to digital communications. However, retailers can only move a customer to electronic communications by obtaining the customer's EIC which means a customer has to opt-in to being communicated with this way. While this is easier to do with new customers at the point of sale, it is more difficult to entice or engage existing customers to make the switch, our general experience is that the rate sits

Other possible communication channels include App notifications through mobile devices, or text messages. We currently use SMS to provide reminders to customers, such as when a direct debit payment is about to be complete. It will be beneficial for consumers if future NECF is technologically agnostic, to allow them to be communicated with in whatever way suits their needs or expectations.

Third party EIC provision

The AEMC paper asks stakeholders to comment on whether energy consumers should be able to provide EIC to a third party to interact with the retail market on their behalf, and if so, what arrangements should be in place.

We do not support a model that would allow third party providers, such as comparison businesses, to obtain power of attorney for customers EIC for the purposes of energy switching.

There is a raft of issues with allowing third parties to provide EIC on behalf of the customer, not limited to verification and validation issues for traditional retailers and consumer EIC through proxy.

In our submission to Treasury regarding the draft Consumer Data Right (CDR) bill in 2018, we raised this as a concern in relation to third party consent and business models.

Consumer comprehension

²¹ Legacy customers are customers that have been a customer with AGL for a number of years. This may have been prior to AGL seeking consent to communicate electronically.

²² See for example, [AGL's submission](#) to the AEMC's draft rule determination on advanced notice of price changes.



Many energy third-party comparators operate on commission-based business models. Commercial agreements with these companies provide energy retailers with a mechanism for seeking redress should the third party not meet the obligations for sales under the relevant laws such as the NERR and NERL.

However, the value and importance of adequate consent laws are not limited by these agreements. Particularly where a retailer's commercial agreements will only be relevant where the relevant EIC has not been obtained appropriately. It would not, for example, cover circumstances where a customer is led to believe they are receiving the best offer in the market – but in fact may only be receiving the best offer available through that third party provider by way of Commissions paid by participating retailers.

We are also seeing the development of subscription options within the energy market, such as the CHOICE Transformer service which recently ended (as of 30 June 2019). Under, this program, for a fee, customers could use the service to handle switching between better deals across retailers for a 12-month period.

Part of the reason CHOICE Transformer stated they were ending this service for customers was because of energy regulations impacting customer transfers. CHOICE noted that retailers often needed to contact the customers to get their consent to switch which slowed down the process of the service and was noted as being frustrating for customers.²³

We have also recently responded to the ACCC consultation for CDR on expanding the CDR Rules to include non-accredited third parties.²⁴ In this submission we highlight the concerns we have with information provision and consumer comprehension to allow for on-sharing of data to third parties. The principles we raised in this submission are relevant to this consideration.

If the onus is to sit with the consumer to know or understand the commercial arrangements that comparator sites have when choosing their service, then it creates a greater information burden on the customer and does not help simplify engaging in or understanding the energy market. We note that the ACCC's Retail Electricity Pricing Inquiry (**REPI**) recommended a mandatory code for comparator websites that would prevent comparators from using Preferred Partner Programs.

This is similar to policy development in the United States under the Illinois Commerce Commission that issued third-party data usage guidelines that include stipulations around how an efficiency program implementer can receive customer consent for access to energy usage data.²⁵ We encourage further consideration on this point, as well as the future role of EIC in the energy market.

²³ See [Choice Media statement](#), March 2019

²⁴ See [AGL submission](#) to the ACCC consultation on the participation of non-accredited third-party service providers within the Consumer Data Right.

²⁵ See for example: <https://aceee.org/sector/state-policy/toolkit/data-access>



We also refer the AEMC to the consumer experience testing being undertaken by Data61 into consumer trust and utilisation of data sharing and consents through third parties²⁶ and the ACCC Rules framework prioritising informed and clear consent as a basis of a functioning CDR system.²⁷ It is important that customers are appropriately informed and able to comprehend the information they are providing and what they are consenting to. We would encourage significant research, such as being undertaken by Data61 before seeking to expand EIC rights through to third parties.

Should third parties be able to give EIC on behalf of the customer in an enduring capacity, then retailer obligations to collect EIC should only be to ensure that the third party provides EIC (not to validate or confirm that the third party has correctly obtained the customer's EIC). Further, these third parties should have the same obligations for obtaining and record keeping EIC from customers, as retailers would have under NECF.

In summary, we do not consider the current EIC obligations on retailers as being fit-for-purpose. While we agree that it is important that customers are informed so as to make appropriate decisions regarding their energy supply, there are instances (such as digital engagement) that are impacted by the current strict obligations. The AEMC should therefore review EIC obligations to ensure that these are relevant to the customers energy supply. We do not support the AEMC allowing third parties to obtain enduring power of attorney for the purpose of providing ongoing EIC indefinitely for a customer.

Billing obligations

Key principles

- The bill should not be used as a vehicle of information provision to customers, particularly as customer uptake of digital is expanding.
- Billing simplification can improve customer comprehension and engagement.
- Billing principles should focus on providing customers with the following key information:
 - the usage period;
 - the usage amount;
 - the amount owed;
 - the pay-by-date, and;
 - where to access further information (this could be a link for digital billing).
 - a message on financial support (e.g. concessions or payment plans).

As the AEMC paper notes, there are 24 requirements for the content of a retail bill.²⁸ However, there is significant customer testing that shows customers primarily only read the bill amount and due

²⁶ See [Data61 consumer standards page](#)

²⁷ See [ACCC consultation on CDR Rules Framework](#)

²⁸ See [AEMC issues paper for traditional sale of energy](#)



date. For example, OFGEM undertook research and found that 81% of customers who open mail from their utility provider do so only to review the bill amount, disregarding any other information.²⁹

The Consumer Policy Research Centre (CPRC), supported by the Victorian government undertook a program of research and work to develop materials for consumers making energy simple and engaging. Included in this pack is an overarching tool for community groups to help clients. This tool includes information on how a customer should read their bill, highlighting the key areas (what is regarded as the important information). This suggests that the most important parts of a bill for a customer are the i) billing period, ii) amount owed, iii) average use and iv) seasonal variation.

Billing obligations should be based on principles, focusing on the priority information customers rely on to engage with their energy service. Given the Consumer Data Right (CDR) will allow easy access to additional information, plus the proliferation of digital access information, consumers will not be worse off through simplifying the messages.

Case study 1 - AGL E-bill trial

We want to provide our customers with simple, transparent and contextual information. We developed a new conceptual electronic bill (E-bill) design to offer customers more transparent and contextual information. The E-bill focuses on providing customers key billing information (e.g. amount billed, pay by date and a usage and cost snapshot). It has live links for customers to access further information (such as usage graphs and account history) and other self-service options such as our self-service meter reads, online payment arrangements and energy insights. In future, we are hoping to have more self-service options for customers su [REDACTED]

We were required to make some adjustments due to new regulatory requirements on 1 July 2019 (e.g. the best offer message requirement).

Our overall customer sentiment regarding ease of understanding was positive, with over 65% of customers surveyed saying they felt better about the new e-bill summary format. Customers' ability to understand the language used on the E-bill was 84%, compared to the 3% surveyed before the trial commenced. These customers stating that the current language is too complicated and technical. It also helped improve customers understanding of other important matters such as whether the bill was based on an estimate. 63% could identify if the bill was based on an estimate for the E-bill, but only 14% were able to do this before the trial commenced.

[REDACTED]

²⁹ [OFGEM UK Final Report - Prompting engagement with and retention of written customer communications](#), 2012, p.20.

Case study 2 - Bill benchmarking obligations

Under the NERR, the AER is required to provide initial benchmarks to retailers and publish those benchmarks on its website (169). Retailers must provide the following information on a bill to a customer (179(1)):

- A comparison of the customer's electricity consumption against the benchmark
- A statement indicating the purpose of the information provided
- A reference to an energy efficiency website

A retailer is required to present the information in a graphical or tabular form, as appropriate, but may do so in a location that is convenient for the retailer (170(2)).

The AER guidance is developed to assist energy retailers meet obligations under the NERL and the NERR – it is not a substitute, nor is it a Guideline as defined by the Rules (such as the RPIG or End Benefit or Hardship which are binding).

- Graphic presentation of benchmarks (section 8)
 - Be presented in a format that is simple and clear to understand without instructions
 - AER do not recommend stacked bar graphs or tabular presentation of benchmarks as they are difficult to interpret without instructions.
- Includes 'best practice' examples of graphical and pictorial formats for benchmarks. While the Rules allow for tabular presentation, the AER says this is no longer best practice but have not sought a rule change.

Bill benchmarking is a source of customer confusion, which is raised by our customer service agents as well as identified through speech analytics. [REDACTED]

[REDACTED] The benchmarking obligations may be useful for some customers to understand averages of usage, but this usefulness needs to be balanced against the cluttering of bill space, the prominence/dominance of this information and the overall comprehension of this information across a broad customer base.

There are so many variables that make any comparison for customers redundant, misleading or confusing. For example, comparing how many people in a customer's home does not take in to account, the size of your house, how well its insulated, how many appliances the customer has, if they have a pool or not, how often the occupants are home (the list goes on).

Due to the number of variables impacting accuracy, it can generate unnecessary and difficult calls where customers do not understand their usage or high bill as a comparison against other sized homes.

Digital technology has led to industry innovation whereby retailers now provide customer usage information that is required to be included on a bill through other means. For example, we offer customers Energy Insights which provides customised information to the customer about how they



use energy in the home.³⁰ Energy Insights has been tested and customers find it valuable. This is an example of how the market has moved ahead of regulations.

While each of the 24 billing obligations viewed individually make sense for certain customers, when you view them as part of the total customer experience, and other information retailers provide through different mechanisms, then the culmination of all the billing obligations create confusion and a lack of transparency.

The bill should be paired back to be in line with its initial purpose of informing customers of their usage and payment, rather than using the bill as a vehicle for providing information. Also, from a commercial perspective, retailers are naturally incentivised to issue a bill, so the specific obligations to bill customers are not needed.

Information provision requirements

Key principles

- Regulation should focus on ensuring that customers receive information as it becomes relevant to them
 - In a timely manner
 - Before changes take effect
- When mandatory information is provided to the customer it must be
 - clear;
 - simple;
 - contain relevant information, and;
 - outline what (if any) action the customer must take.
- Information should be able to be bundled if/where it is appropriate.
- Information provision requirements should be technology agnostic to allow retailers to engage with customers in tailored ways.

We note that the NERR requires over 20 customer notices or notifications (e.g. price variation, reminder notices, planned interruptions, under/overcharging, shortened collection cycle etc)³¹. There is a range of timeframes and levels of prescription regarding required information, with inconsistent language across all, for example:

- not fewer than 5 business days after³²

³⁰ More information on Energy Insights is available here: <https://thehub.agl.com.au/articles/2018/02/agl-energy-insights>

³¹ This is not a thorough or complete review of the obligations to notify customers.

³² 110 – disconnection warning notices

-
- within 10 business days³³
 - at least 4 business days³⁴
 - at least 5 business days³⁵
 - within 5 business days³⁶
 - as soon as practicable³⁷
 - in a timely manner, when it is relevant to do³⁸
 - must promptly provide³⁹
 - no earlier than 40 business days and no later than 20 business days before⁴⁰
 - must inform the customer on the next bill⁴¹
 - must inform the customer⁴²
 - must notify the customer in writing⁴³.

Moving towards objectives (principles) based regulations would resolve these issues. A principle could be that information must be provided in a timely manner (e.g. when it becomes relevant to the customer). See our case study below regarding new connections.

There would also need to be limitations put on the AER's ability to develop guidelines that prescribe obligations on the provision of information under the NERR and NERL to ensure that future divergences in retailer obligations are limited and to minimise the expansion of outcomes-based regulation into over prescription through guidelines. These issues are explored in the two case studies below.

³³ 136(2) overcharging. 137(2) undercharging

³⁴ 124B (retailer planned interruption)

³⁵ 46(4) Tariffs and charges

³⁶ 58 & 59 (Notice to small customer transfer)

³⁷ 62(a) and 62(b) – required information, 53(1) Deemed contract, 19 Designated retailer sale of standing offer

³⁸ Part 11 – Hardship guideline

³⁹ 28 – provide historical billing information on request

⁴⁰ 48A(2)(b) – End benefit notification

⁴¹ 21 – estimated bills

⁴² 72 – payment plan

⁴³ 33(3) – government rebates

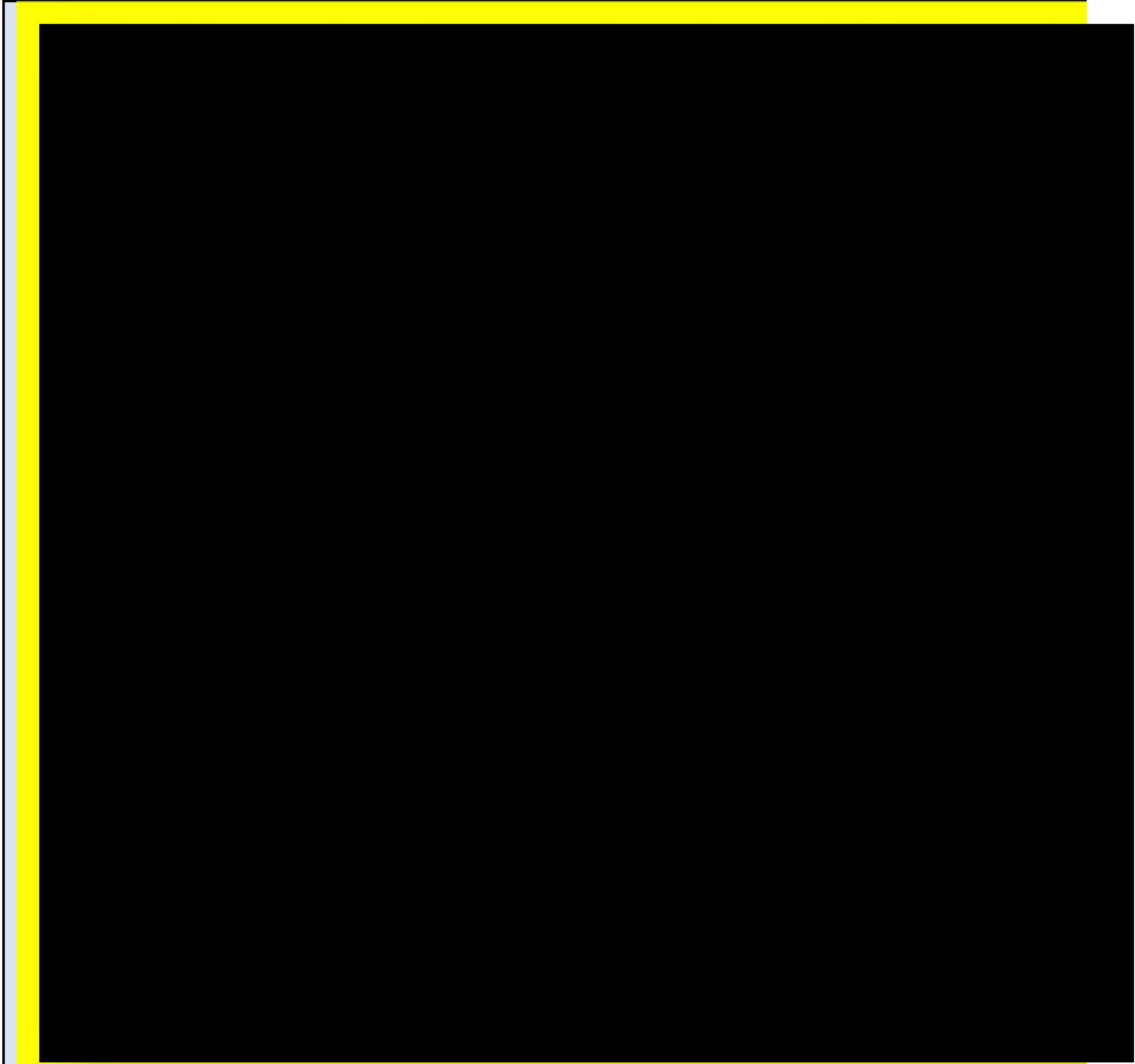
Case study 3 – End Benefit Guideline

The obligations contained within the AER End Benefit Guideline are prescriptive and can lead to customer confusion. The AER utilised the Behavioural Insights Team to undertake behavioural insights research and literature review to inform the development of obligations under the guideline.

The behavioural insights research showed a clear headline statement focused on loss aversion led to a higher comprehension of key aspects of the letter.⁴⁴ The AER stated that they *consider the inclusion of a headline statement in the benefit change notice is crucial in ensuring customers engage with the content of the notice and understand the overall purpose of the communication*, and therefore within their scope under 46B of the NERR as amended by the AEMC. However, the use of a loss-leading message does not mesh well with the overall communication and tone that retailers try to use to engage with the customer.

The AER focused on consumer testing the headline statement rather than the totality of the statements and the customer experience based on tone and language. The notification now has to include the Electricity Code reference pricing requirements, which makes this piece of communication even more complex with a different data point (see example below). This is providing customers with two prices which can create confusion. While the end benefit notice may remain important to customers, the obligations under both the Electricity Code and the End Benefit Guideline create duplicative and confusing product and price comparisons.

⁴⁴ See AER Benefit Change Notice Guidelines, [Notice of Final Instrument](#), June 2018, p.17.



The above communication is not customer friendly, it contains a substantial amount of information, with varying levels of jargon and potentially confusing information for customers.

We recently undertook a survey through an online panel to ask respondents about an example end benefit notification.



[Redacted]

[Redacted]

Respondent verbatims

[Redacted]

[Redacted]

It is therefore important that information provision requirements consider the customer experience as well as customer comprehension and expectation out of notifications with retailers. Objectives or outcomes-based regulation would enable retailers to provide the valued information, in a manner that suits the customer's needs and expectations and when the information is relevant.

Other regulatory barriers examples

Below we have provided additional case studies that provide insights into the way prescriptive regulation may create barriers or complications in retailers' abilities to provide a positive customer experience.

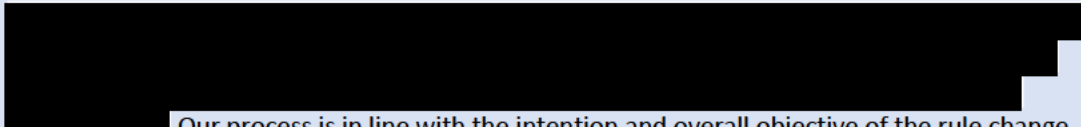


Case study 4 – Self-service meter reads

In 2019 the AEMC issued a rule change determination for allowing customers to submit their own meter reads where they had been billed on an estimated read. We provided extensive information to the AEMC on our well-established Self-Service Meter Read (SSMR), that we had adapted through trial and error over the course of more than 12 months (prior to the rule change).

What we discovered was that the final rule change was far more restrictive than the service we had developed for our customers, and ultimately resulted in a poorer customer experience. This was due to the wording of the final rule stating:

the small customer may request an adjusted bill based on the customer's reading of the relevant meter (a customer read estimate) by providing the retailer with the customer read estimate before the due date for payment of the bill under paragraph (a).



Our process is in line with the intention and overall objective of the rule change, in allowing customers flexibility and the ability (and information) to submit their own meter reads to reduce impacts of estimated bills. It delivers a more positive consumer outcome and experience and is not limited to the timing of a bill being issued.

Our process was developed and refined based on customer feedback and engagement with our services. We developed our processes to be customer friendly and to fit with their lifestyle (e.g. the flexibility to provide reads if and when it suits them).



Case study 5 – Digital meters

AGL has over the last few years worked with the AER and has obtained time limited ‘no action’ waivers for the roll out of digital meters following the commencement of Power of Choice regulatory obligations. The ‘no action’ waiver allowed AGL to demonstrate to the AER, the Commission and other market participants that certain regulatory obligations inhibited rather than supported efficient roll out of digital meters and therefore led to poor customer outcomes. The success of the ‘no action’ waiver was a major input to the Commission’s final Rule in setting minimum timeframes for installing digital meters.

Prior to the start of power of Choice AGL established a meter business, Active Stream, that installed digital meters. The installation process was refined from customer feedback and was based on providing customers a 2-week window as to when the meter would be installed. Post Power of Choice, the regulations were very prescriptive and required retailers to install a meter on the exact day following a 4 business days notification period. Through the ‘no action’ letter AGL was able to demonstrate that rolling out meters through appointment windows was more effective (more meters were able to be installed per installer) than a specific day. The appointment window concept was adopted as part of the AEMC’s minimum timeframe meter installation rule.



Part 2 – New Energy Products and Services

AGL and new energy products and services

We are interested in new energy consumer protections because we have been diversifying our service and offerings for customers beyond traditional energy, into other products and services including those listed below. Diversification of services is also expected to take place, as more data is available cross-sectorally under the CDR regime.

- **Virtual Power Plant** - AGL's South Australian Virtual Power Plant (**VPP**) program which commenced in 2016 comprises the sale, installation, and orchestration of 1,000 energy storage systems installed behind-the-meter in homes and small businesses in South Australia.⁴⁵ Our VPP will deliver up to 5MW of peak generation and 12 MWh of storage capacity to homes, the National Electricity Market (NEM), and a range of network services across metropolitan Adelaide. AGL has since expanded its orchestration service offerings to enable customers in New South Wales, Queensland, South Australia, and Victoria to bring their own battery to AGL's VPP, and for customers in South Australia to purchase a more affordable battery through AGL.⁴⁶
- **AGL Peak Energy Reward Program** – voluntary reward program for customers to reduce their energy use during extreme peak demand. Customers receive an SMS approximately 24 hours before an event to receive up to \$15 credit for reducing their usage in the designated times.
- **Acquisition of Southern Phone Company**⁴⁷ – one of Australia's largest regional telecommunications companies with more than 100,000 customers across Australia.

Overview

Australian consumers are leading the world with the uptake of solar installations⁴⁸ and the market for other distributed energy resources (**DER**) is maturing, with new developments in battery energy storage systems and electric vehicles. Customers are engaging with their energy in new ways, using their DER assets to participate with energy services such as orchestration, which help provide stability and support to the grid and wholesale market in periods of high electricity demand.

As customers engagement and interests in energy are changing, so too must the regulatory landscape in recognition of energy as an essential service. Our position is that consumers, irrespective of how they choose to receive their energy supply and services, should be afforded the same rights and protections as passive customers of traditional retailers.

⁴⁵ More information available here - <https://arena.gov.au/projects/agl-virtual-power-plant/>

⁴⁶ See [AGL website for solar battery benefits](#)

⁴⁷ See [AGL media announcement on acquisition of Southern Phone Company](#), 19 December 2019.

⁴⁸ Energy Change Institute paper, [Powering ahead: Australia leading the world in renewable energy build rates](#), 4 September 2019.



From a customer-centric perspective, the source of energy is immaterial. Customers expect to have the same rights in terms of supply and service. In the new energy context, the expectation may be greater (e.g. guarantee of participation/ value creation) but the same basic protections should apply as a matter of equivalence (i.e. guiding principles on customer service outcomes).

This is a position that we have publicly supported previously, through reviews such as the expansion of Embedded Networks into NECF, and concessions coverage (not just limited to embedded networks, but also white label retailers etc).

The ACL has already been considered insufficient to cover new energy product and service providers, which was the rationale for the development of the New Energy Tech Consumer Code (**NETCC**). NECF provides a degree of specificity for the energy protections that does not exist in general consumer law.

But, as the AEMC identify in the Issues paper, currently, it is only clear that the NECF applies in relation to the sale of electricity to customers whose premises are connected, or to be connected, to the interconnected national electricity system.⁴⁹

Providing for new energy service and product providers to be covered by NECF needs to come with the understanding that the NECF is currently not fit-for-purpose in an evolving market, and requires reform to an objectives based model (as we described above in the Executive Summary and Part 1 on traditional retailers).

Indeed, the AEMC's review must recognise that the relevance of NECF is not just about connection to the NEM, but a range of energy supply and access models and the diversification of service or product from the point of view of the customer in terms of accessing and utilising energy.

As the energy market expands and evolves, so too are ways that retailers are seeking to engage and service their customers, such as the acquisition of telecommunication companies, utilising white label retailer arrangements and so forth. This could include things such as products and associated finance. This was an issue in the NETCC negotiations where signatories would only provide finance through a licenced credit provider. On the other hand, smaller new energy providers could provide finance through unregulated buy now pay later arrangements, reducing their regulatory burden and associated product cost.

While the NETCC will assist with some consistency, it is not the way to resolve the growing gap of regulations between traditional retailers and new energy product and service providers. NECF focuses on providing energy specific consumer protections, whereas the NETCC is setting a minimum regulatory standard for selling, installing and maintaining BTM products and services. It will not require these providers to treat customers who fail to pay their bills, hardship, family violence, and life support customers in the same way that traditional retailers do under the NECF.

⁴⁹ New energy issues paper p.21.



A survey undertaken by AGL in 2019 found that 58% of residential customers were interested in multi-product propositions, with 26% neutral on the proposition.⁵⁰ It is therefore important to ensure that cross-service regulations allow for interoperability across sectors as much as possible.

The following sections describe AGL's new energy services for customers, and other comments for the AEMC's consideration.

General approach

Key principles

- The essential nature of energy has not changed (i.e. consumers continue to rely on it to heat and light their homes or run a business). What has changed is the sale and engagement of customers (e.g. it has expanded and continues to expand across to other methods including solar, battery, microgrids, stand alone power systems etc).
- The NECF should cover access to energy (whether from the grid or alternative ways) and be future proofed.
- The concept of primary and secondary sources of energy (e.g. grid and solar) will become increasingly blurred, and potentially irrelevant as new products and services are developed.

The future energy model will also be a key driver for much broader innovation and will be a key infrastructure element for the emerging grid (and off grid) structures. This model should acknowledge trends shaping the markets including:

- A move to cross-service, multi-service and diversification of products offered by both traditional and non-traditional energy participants. Decision-makers can no longer just look at energy in isolation and it is important to look at how other laws impact the delivery of services (e.g. expansions into data).
- Product and product finance
- Greater customer participation and value creation (e.g. demand response payments, orchestration payments, peer to peer trading).
- Increasing proliferation of new energy developments with a community focus, such as microgrids, community storage, solar and other projects. We are already seeing this through government programs such as the NSW Low Income Solar program.⁵¹

⁵⁰ See [AGL Investor Day presentation](#), 30 October 2019,

⁵¹ See <https://energysaver.nsw.gov.au/households/solar-and-battery-power/solar-low-income-households>



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- Disruption from outside the industry operating in the digital/sharing/networking economy. This can result in rather rapid and massive changes that often cannot be controlled by government or industry in a timely manner.

Our research shows that customer expectations are changing but delivering on the fundamentals is still important:

- 28 billion devices globally forecast by 2022
- 64% of respondents express that a residential energy and data package is relevant to them
- Falling battery costs are shortening the payback periods for residential solar to 6.5 years supporting uptake and demand for orchestrating.
- 73% of customers say an extraordinary experience raises their expectations of other companies (no matter which industry)
- Trust is the most important non-price driver for choosing a brand.⁵²

It is therefore important that irrespective of the energy service or product provider, customers should be provided with a level of consistency on fundamentals and an acknowledgement that new energy brings with it not just the service of supply and access, but also a value creation from the customer.

As we noted above in Part 1, we invest in our ability to provide the optimal customer experience through our communications and service offerings to customers. It is important for our new energy product and service offerings to be meaningful and tailored to our customers in the way that best suits their needs. The regulations should therefore ensure the same core information is provided to customers (e.g. for a bill to focus on the amount owed and date due), and the remaining information can be accessed by customers through other means (such as clicking a link to additional information).

As BTM offerings diversify and increase in customer uptake, there needs to be an ability to simplify and tailor the communications provided to customers to their needs and preferences. Currently there is little real estate available on our traditional energy paper bills to customers to provide tailored and relevant information (such as a graphical display of energy generated by solar, used in home and shared with the grid).

Below is an example of how the traditional regulations and the new energy approach are converging on business currently as they seek to diversify services and solutions for customers.

⁵² See [AGL Investor Day presentation](#), 30 October 2019

Case study 6 – New connections

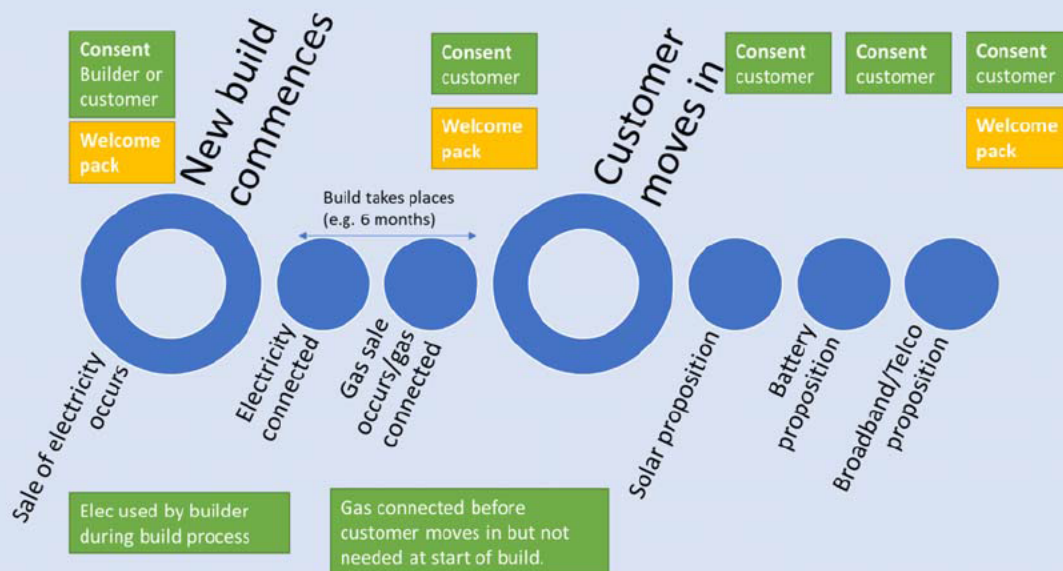
New connections can occur either:

- Green field arrangements are where a new block of land is purchased and built on for the first time.
- Existing / brown field arrangements are where the land has already been used but is being upgraded (e.g. a property is bulldozed, and a new property is built).

Our experience is that when a new connection is needed for either a brown or green field arrangement, the regulations are not fit-for-purpose. As outlined below, the current regulations are restrictive around timing of providing information as to when the information is the most relevant to the customer in the renovation/building process.

At the start of a build, electricity is provided to the site to allow for construction and general use by builders. But the electricity connection agreement can be between the builder or the customer. At the end of the build, before a customer moves in, gas will also potentially be connected, EIC would be obtained from the customer at this point. The customer may also need solar, battery, or other services such as data or broadband at this point. EIC obligations are unnecessarily restrictive for these types of arrangements, where a customer must be contacted multiple times throughout their new build journey to add on the additional services. Welcome pack information is then sent within 48 hours to these customers, in line with obligations under the NERR.

Figure 1: Green field customer journey example



Because our products, services and offerings change over time, if EIC was obtained for all subsequent products at the initial point of electricity connection, the welcome pack information may not accurately reflect the state of the market when the home is built, and the customer's gas, solar or other service is connected. The customer could also effectively be six months into a



twelve-month gas contract before they move in – with information having been provided on the arrangement at the time consent was given. This is not in the customer interest.

It would be a better customer experience if they are able to discuss with us up front what their energy and other connection needs would be (e.g. electricity, gas, solar, battery, broadband). We could then work with the customer to put in place an energy management plan with the customer and gain their consent on that plan. We could then work with the builder to roll out their plan and inform the customer through the digital portal as milestone occur.

The future of the energy and services market would be to allow businesses to offer an upfront experience for the lifecycle of their new home process, rather than requiring multiple contacts as their journey evolves.

It would be more appropriate if the regulations allowed for information to be sent to the customer when it becomes relevant to them. If a business could obtain EIC at the start of a build for new connection arrangements, then customers could be updated if and when each service is about to be connected with the relevant information.

This concept of up-front consent followed by timely communication is what we currently do for orchestration. We scope the battery requirements with the customer and inform them about orchestration key features. We then work with battery provider to install battery and keep the customer informed of major steps (e.g. when installation will occur, what the customer needs to do to prepare for installation, when the battery commences and when orchestration events occur). This provides for a more customer centric experience.

Consumer Data Right

The CDR is a new right for consumers to be able to easily access their data, or to direct it to accredited third parties for the provision of products and services. The CDR is set to launch in banking in July 2020 and expected to be put in place for energy in 2021. The CDR is an ambitious new right, that is intended to be rolled out into all sectors of the Australian economy, including telecommunications, insurances and more.

As consumer rights into the access of their data becomes more prolific, and as the government seeks to find new ways to invest in digital solutions for the Australian economy⁵³, the less justification there is to have industry specific information provision requirements – particularly as product and service portfolios diversify across businesses.

Treasury have announced the priority datasets for energy which includes:

- NMI standing data
- Customer provided data
- Billing data
- Generic tariff data

⁵³ See for example [Department of the Prime Minister and Cabinet News Centre](#), announcement of Digital Taskforce



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- Tailored tariff data
 - Distributed energy resource data
 - Metering data.

Treasury have stated previously that the priority datasets are being chosen to inform and allow for a range of use cases, including those which have not been contemplated yet. Known / expected use cases include price comparison, switching and to support new energy decisions. These could include highlighting new energy technologies that can reduce cost or improve service, supporting consumer decisions about investment in generation and storage and finding the best solar system for the customers lifestyle and budget.

Therefore, knowing and understanding new energy options is important for futureproofing both energy use and access in Australia, as well as maximising the CDR benefits for consumers.

Need for national energy ombudsman

Energy Ombudsman Schemes were borne from the time States were responsible for consumer protection regulations. When all States, except Victoria, signed up to NECF the States all kept the State based structure. As the energy sector has begun to change and new business models and distributed energy has taken off, policy and regulatory makers have taken incremental steps to change state-based schemes to keep up with these changes. This review provides a timely opportunity to take a step back and consider the structure and coverage of Ombudsmen schemes.

AGL believes, there is an increasing need for Australia to consider a single, national energy ombudsman that can manage all types of energy matters. The state energy schemes were appropriate when Australia had state-based energy regulation, but after the move to the NECF, and increasingly diverse participants enter and engage in the market, the gaps in the state schemes are becoming more prominent.

We note that both the financial and telecommunications sectors have national ombudsman schemes, and these are increasingly important as the Australian economy move towards the CDR.

Both the CDR and embedded networks are being rolled under the energy ombudsman schemes, impacting membership payment models and increasing the scope and potential divergences between jurisdictions. We understand that currently a customer's treatment and potential re-direction to other services will occur depending on whether part of their complaint is related to a traditional retailer or a solar panel installer. This was the same type of issue that customers in embedded networks faced – confusion about support services and where to go for help.

Some of the benefits of a national scheme include:

- Consistency in governance arrangements (currently differ across jurisdictions).
 - Funding models differ across schemes, and there can be equity issues in the way fees are charged to participants (e.g. ensuring smaller participants pay both the incremental costs of handling the complaint and the fixed fees for the scheme).

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- Sustainable funding
 - Current funding models are very complex and completely different across schemes (e.g. charging based on actual monthly volume vs charging in advance and forecast volumes and reconciling after EOFY).
 - Under expanded jurisdiction it will be important to move to charging for actual case load as forecasting will be very difficult with large member numbers. Inequity if some members pay in advance and others in arrears.
 - General
 - BTM and other new technologies/innovations; it is more cost-effective to build the appropriate capabilities once, rather than separately in each jurisdiction.
 - Avoid duplication of existing support channels for customers (eg. Master Builders, Offices of Electrical Safety, Fair Trading, etc).
 - Most other industries are consolidating similar schemes and operate nationally
 - Most energy rules are harmonised now
 - Issues experienced by consumers are generally consistent across states
 - More efficient to develop new capability (technology and knowledge of expanded jurisdiction) once nationally rather than per state.

By rolling new energy product and service providers under the cover of a national energy ombudsman, that is responsible for a range of energy market responsibilities, including the CDR, the government can ensure consistency for customers and increase their confidence in the market.

Other comments

As businesses seek to diversify and harness the value of customer generation and market participation, the regulations must ensure that traditional retailers are not constrained in participation compared to new entrants.

The regulatory sandbox arrangements are an important step in ensuring this can occur. Regulatory sandboxes can provide a good platform and evidence on how to change current regulations to make them more fit for purpose in a 'live environment'. It is important to ensure though, that regulatory sandbox arrangements are not relied upon (for example, using sandbox arrangements as an exemption to level the playing field between businesses with retail licenses, and those without).

Technical Standards

We also see value in harnessing technical standards to create consistency and an acceptable level of quality and reliability for consumers. According to a recent report by the ANU Energy Change Institute, Australia has about 9 GW of roof mounted solar PV deployed, which is by far the largest per capita rooftop-PV deployment in the world.⁵⁴ It is therefore important that energy product

⁵⁴ Energy Change Institute paper, [Powering ahead: Australia leading the world in renewable energy build rates](#), 4 September 2019.



providers, including energy retailers, and infrastructure engineers ensure that people feel confident with the new energy product or service including solar panels, batteries, EV chargers and so on.

As we have broadened from energy provider to offering distributed energy resources and orchestration,⁵⁵ it's important that we are our customer's voice on technical standard setting.

We participate in the following standards development committees on behalf of the Australian Energy Council (AEC):

- **EL-001 (Australian wiring rules):** this committee considers connection and protection requirements for solar and battery inverters and electric vehicle chargers.
- **EI-042 (renewable energy power supply systems and equipment):** this committee considers installation and performance requirements for solar and battery inverters.
- **EL-054 (remote demand management of electric products):** this committee considers how household products like air conditioners, water heaters, and electrical vehicle chargers will be able to communicate and respond.
- **EL-064 (decentralised electrical energy and grid integration of renewable energy systems):** this committee considers future standards for grid-connection of distributed energy resource (DER) systems, including virtual power plants).

AGL also sits on the technical reference group for the battery energy storage performance standard being developed by the Smart Energy Council.⁵⁶

There is therefore a need for consistency in the way the rules and standards are developed and ensuring that these centre on consumer protections. This includes the role and relationship that networks and connection agreements play to ensure that the customer is not prevented from receiving the benefit of their DER.

This would also be an opportunity to leverage standards and codes to support an outcomes-based NECF.

Other policy reviews

Reviews in other jurisdictions can help inform the AEMC's approach including:

- **Energy Policy Western Australia Directions Report** - this Directions Report describes the deficiencies with the existing regulatory framework in relation to the new business models, with a focus on behind-the-meter electricity services. These deficiencies include the limited flexibility of the framework, level of customer protections, an inadequate compliance and enforcement regime, and restricted access to some dispute resolution services.

We encourage the AEMC to review the Energy Policy WA Directions Report, creating a dynamic customer protection framework for BTM electricity services. This report was developed to identify a regulatory framework that facilitates businesses providing BTM

⁵⁵ AGL article [conducting an orchestra of solar and batteries](#), 26 September 2019

⁵⁶ See the [Smart Energy Council](#) for more information.

electricity generation and storage services, while ensuring consumers have the appropriate level of consumer protections.⁵⁷

The framework identified by Energy Policy WA involves the development of customised codes of practice for categories of ‘alternate electricity service’, with each code of practice being developed in consultation with stakeholders. In the first instance, it is proposed that behind-the-meter generation and storage services, which includes solar power purchase agreements, will need to be prescribed as an alternate electricity service. To enable these codes of practice, a new head of power would be inserted in the *Electricity Act 2004*.

- **Sustainability Report UK** – a mid-way report released by UK’s Sustainability First which focuses on delivering on fairness and the environment; an agenda for responsible business in UK regulated utility. This encourages regulators to embrace disruption so that companies are better able to anticipate, influence and proactively cope with change – including in public opinion. It states that Utility policy and regulatory arrangements need to acknowledge and internalise wider approaches to standards and accreditation. Above all, utility regulation needs to establish agreement on approaches to valuing and measuring outcomes for beneficial social and environmental change, including on changes in company culture, as this will shape how judgements around fairness are made.⁵⁸

⁵⁷ Energy Policy WA Directions Report, [Creating a dynamic customer protection framework for behind-the-meter electricity services](#)

⁵⁸ Sustainability First UK report, [fair for the future](#), January 2020