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Energy Policy WA

Submitted by email to: [Steven.Kane@energy.wa.gov.au](mailto:Steven.Kane@energy.wa.gov.au)

**15 May 2020**

Dear Steven

**WA Behind-the-Meter Code of Practice, Draft, May 2020**

AGL Energy (**AGL**) welcomes the opportunity to provide feedback on Energy Policy WA's draft Behind the-Meter Code of Practice (**BTM Code**), that has been developed alongside the proposed WA regulatory framework for alternative electricity services.

AGL is one of Australia's largest integrated energy companies and the largest ASX listed owner, operator, and developer of renewable generation. AGL is also a significant retailer of energy, providing energy solutions to around 3.72 million customers throughout eastern Australia and around 59,000 gas customers in WA. We have delivered multiple trials and projects that draw upon customers' distributed energy resources (**DER**). Our current DER product and service offerings include our Virtual Power Plant<sup>1</sup>, our retail offer for electric vehicle owners<sup>2</sup> and our Peak Energy Rewards Managed for You program.<sup>3</sup>

**Strategic direction**

In our view, the adoption of the BTM Code presents an important opportunity to support the implementation of the DER Roadmap that was developed by the Energy Transformation Taskforce to facilitate WA's transition towards a more decentralised power system.

As businesses diversify and new entrants disrupt the energy market with new energy products and services, AGL believes it is essential to provide a consistent customer experience by affording equivalent rights and protections to consumers regardless of how they choose to receive their energy supply and services.

Nevertheless, given the infancy of the DER market and its increased focus on the provision of products as compared with traditional electricity services, careful drafting will be required to ensure that the BTM Code provides fit-for-purpose consumer protections whilst facilitating competition and market innovation.

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<sup>1</sup> For further information regarding AGL's Virtual Power Plant, please refer to [https://www.agl.com.au/solar-renewables/solar-energy/bring-your-own-battery?cide=sem-r&gclid=EAlalQobChMlicjKmKuP5wIVvjUrCh2eXwvVEAAYASAAEgLRPD\\_BwE&gclid=aw.ds](https://www.agl.com.au/solar-renewables/solar-energy/bring-your-own-battery?cide=sem-r&gclid=EAlalQobChMlicjKmKuP5wIVvjUrCh2eXwvVEAAYASAAEgLRPD_BwE&gclid=aw.ds).

<sup>2</sup> See further, AGL EV Plan, available at <https://www.agl.com.au/electric-vehicles>.

<sup>3</sup> See further, AGL Peak Energy Rewards Managed for You, available at <https://www.agl.com.au/solar-renewables/projects/peak-energy-rewards-managed-for-you>.



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## Key recommendations

### **1. *Revise the BTM Code to ensure the protections are fit-for-purpose for the DER market.***

We would recommend the BTM Code provide greater clarity on its scope of application. We would support alignment with current industry practice in the DER market that is typically characterised by the sale and installation of products in addition to the provision of a range of services.

### **2. *Align the BTM Code with the national consumer protections framework.***

We consider that a nationally harmonised approach would better facilitate competition and market innovation by reducing the regulatory burden on businesses operating nationally, that would otherwise be required to adhere to multiple consumer protections frameworks. Further, a nationally harmonised approach will ensure all customers experience the same level of protection, regardless of their location.

We would therefore encourage alignment with the industry-wide New Energy Tech Code that was developed at the request of the COAG Energy Council.<sup>4</sup> AGL believes the New Energy Tech Code will complement current consumer protection requirements (including the Australian Consumer Law) by reducing information asymmetry for consumers and requiring minimum and consistent standards for sales practices, finance, delivery, installation and complaints handling.

### **3. *Establish appropriate transitional arrangements for current retail exemption holders.***

We elaborate our feedback in the **Attachment**.

Should you have any questions in relation to this submission, please contact Kurt Winter, Regulatory Strategy Manager, on 03 8633 7204 or [KWinter@agl.com.au](mailto:KWinter@agl.com.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'K. Winter', with a long horizontal flourish extending to the right.

Con Hristodoulidis

**Senior Manager Regulatory Strategy**

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<sup>4</sup> See further, COAG EC Energy Market Transformation Bulletin No 05 – Work Program Update (3 August 2017), available at <http://www.coagenergycouncil.gov.au/publications/energy-market-transformation-bulletin-no-05—work-program-update>. The New Energy Tech Code is currently before the Australian Competition and Consumer Commission for authorisation, pending legal review by the Competition Tribunal: see further <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/new-energy-tech-consumer-code>. AGL was nominated by the Australian Energy Council to represent energy retailers on the BTM Working Group and contributed towards the development of the New Energy Tech Code through formal submissions, technical lead support and ongoing engagement with the BTM Working Group.



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## APPENDIX

### Scope of coverage

We note that the BTM Code was drafted based on the current Code of Conduct for the Supply of Electricity to Small Use Customers (**CoC**), that is framed by reference to the provision of an ongoing service. The current definition of 'BTM service' under the BTM Code appears to contemplate power purchase agreements or equivalent and defines 'BTM Service' as *an optional or discretionary service provided to a BTM customer who has a direct relationship with a licensed electricity retailer whereby the BTM customer purchases electricity services provided by a BTM system.*

Given that the DER market typically also includes the provision of physical products, we would recommend that this be reflected in the definition of 'BTM service'.

We also note that in previous Working Group discussions, reference was made to the spectrum of alternative electricity services that could be regulated under the proposed framework, including:

- microgrids;
- electric vehicle charging stations;
- community energy services;
- aggregation services; or
- peer-to-peer trading.

We would welcome greater clarity on how these different services would be incorporated into the BTM Code into the future, for example through prescription in the broader regulatory framework. We would support a process that enables appropriate industry consultation and ensures alignment with a nationally harmonised approach.

### Draft BTM Code principles

#### *Part 2 – Marketing and Information Provision*

Given that the BTM Code is intended to govern technologies that entail a range of products/infrastructure installed in customer homes, we recommend it also capture minimum consumer protections in the following areas:

- Information provision. The New Energy Tech Code contemplates the provision of information on the safe, effective and optimum use of service or purchase including any customer obligations.
- Quotes. The New Energy Tech Code requires the provision of comprehensive details of offer, including expected performance and any limitations, itemized list of inclusions, installation times, breakdown of costs, any relevant warnings and consumer rights and obligations.

#### *Part 3 – Billing*

The sale of physical products, and their financing, is a key component of the DER market that should be appropriately accommodated in the billing provisions contained in the BTM Code.

We note that the draft provisions do not reflect the financial arrangement of the product or service supplied and may be too restrictive or not align with other business processes. We also note that these provisions seem to contemplate an ongoing service rather than the sale of a product, such as a battery storage system.



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#### *Part 4 – Metering*

While we support the BTM Code setting minimum consumer protections, we would recommend that metering requirements reflect national regulatory requirements, including that:

- The metering metrology be required to be market or billing grade to enable BTM services to be brought together with retail bills.
- The Code articulate the process for organising a metering upgrade, if required to receive BTM services, in alignment with the National Energy Customer Framework obligations.

#### **Areas omitted from the BTM Code**

Given the nature of BTM products and services governed under the BTM Code, we consider a range of other topics should also be covered (as have been addressed in the New Energy Tech Code).

- *Finance.* We note that the New Energy Tech Code provisions require finance (with an interest component) through a third party only if they are a licensed credit provider or comply with an approved industry code of practice. The New Energy Tech Code also establishes certain information disclosure requirements with respect to finance.
- *Delivery, installation and safety.* The New Energy Tech Code requires delivery and installation in the timeframe promised and in accordance with all safety regulations, manufacturers' specifications and Australian Standards.
- *Activation.* The New Energy Tech Code provisions require assistance with any necessary activation steps to begin delivering customer benefits, including with any necessary approvals and connection to an energy network.
- *Customer service.* The New Energy Tech Code provisions require fair terms and high standards of communication and support, including that providers act promptly to any contact or reasonable requests from a customer.
- *Warranty.* The New Energy Tech Code provisions reinforce that providers will honour all guarantees and warranties customer may be entitled to and will promptly fix service issues and make repairs or replacements.

#### **Transitional arrangements**

To enable businesses operating in the WA market to appropriately plan for these regulatory changes, we would recommend that the Government consider an appropriate timeframe for current retail exemption holders to transition towards the new BTM Code obligations. Given that a range of customer processes and systems would need to be reviewed to ensure alignment with the BTM Code, we would recommend a transition period of 12 to 18 months.