

A few
words.

7 June 2013

Manager
Energy Markets Unit
Infrastructure Division
The Treasury
Langton Crescent
PARKES ACT 2600

Lodged (by email): ESCSecretariat@treasury.gov.au

Dear Sir / Madam

Australian Securities and Investments Commission Amendment Regulations 2013 (No. 1)

AGL Energy Ltd (AGL) welcomes the opportunity to make a submission to The Treasury on the Commonwealth Government's proposed amendment to the *Australian Securities and Investments Commission Regulations 2001* allowing the disclosure of information to the Energy Security Council (ESC).

AGL is one of Australia's largest retailers of gas and electricity with more than three million customers in Victoria, New South Wales, South Australia and Queensland. AGL is subject to various financial reporting and financial services regulations, which are administered by the Australian Securities and Investment Commission (ASIC). As part of its powers, ASIC may collect sensitive and commercial information from AGL. AGL is therefore concerned about the disclosure of this information to other bodies.

AGL does not support the proposal to permit ASIC to disclose information to the Energy Security Council (ESC) for the reasons set out below:

- **Confidential and Sensitive Nature of Information**

The information that ASIC collects from companies such as AGL is of a highly sensitive and commercial nature. While ASIC is limited to its use and disclosure of this sensitive information, the ESC is not. The ESC does not appear to be bound by any comprehensive undertaking of confidentiality. ASIC is regarded with a high level of trust because it is bound by such rules. If ASIC is permitted to disclose such information to the ESC, it will undermine the trust that companies place on ASIC, resulting in a reluctance to provide information to ASIC.

Furthermore, the information that ASIC is in control of will have greater sensitivity if companies are required to provide further information in relation to its Over-The-Counter Derivative activities. As such, it is not suitable for information that ASIC is in control of to be disclosed to the ESC for any purpose.

- **No Clear Justification for Disclosure to ESC**

AGL questions the need for the ESC to be provided with information by ASIC. The proposed regulation allows ASIC to disclose information to the ESC to enable it to perform its functions. One of the functions of the ESC is to assess a generating entity's application for a loan. The ESC can directly ask the relevant entity for any specific information that it needs for the purposes of making its assessment. There doesn't seem to be a strong argument for obtaining any information indirectly from ASIC about the company.

In addition, the other main function of the ESC is regarding energy security. This is in coordination with other bodies such as AEMO that are also responsible for energy security without access to such confidential information. Therefore AGL questions why confidential information provided to ASIC for its purposes needs to be disclosed to the ESC in order to carry out this function.

Concluding remarks

AGL would be happy to provide further information to the Treasury should this be helpful. Please contact Josynta Singh at jsingh@agl.com.au or on 03 8633 6628 if you have any questions in relation to AGL's position on these issues.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Camroux'.

Simon Camroux

Manager Wholesale Markets Regulation

AGL Energy Ltd

- > Being selected as a member of the Dow Jones Sustainability Index 2006/07
- > Gaining accreditation under the National GreenPower Accreditation Program for AGL Green Energy®, AGL Green Living® and AGL Green Spirit
- > Being selected as a constituent of the FTSE4Good Index Series