

## National Energy Retail Law

Undertaking to the Queensland Competition Authority for the purposes of Section 288 of the National Energy Retail Law

by

**AGL Sales Pty Ltd (ABN 88 090 538 337)**

### ***Person giving the undertaking***

1. This undertaking is given by AGL Sales Pty Ltd (ABN 88 090 538 337) of Level 24, George Street, Sydney NSW 2000 ('AGL') to the Queensland Competition Authority ('QCA') for the purposes of Section 288 of the National Energy Retail Law.

### ***Background***

#### *Late Payment Fees*

2. As an electricity *retailer*, AGL has certain obligations in relation to the application of fees and charges for small Queensland electricity customers on a Standard Retail Contract.
3. These obligations arise through the operation of Section 22A of the *National Energy Retail Law (Queensland) Act 2014* ('NERL QLD') and require that a retailer's standing offer prices for providing retail services to small customers comprise only of fees and charges that were the subject of notified prices for the financial year immediately preceding the day that the price determination no longer applied.
4. Late payment fees for small electricity customers were not the subject of the notified prices in the financial year immediately preceding the day that the price determination no longer applied.
5. Obligations under Section 22A of the NERL QLD are Queensland-specific derogations, monitored, investigated, and enforced by the QCA.

### ***The Late Payment Fee Incident***

6. Between 21 January 2015 and 5 August 2020 ('**Relevant Period**'), 21,144 residential and 3,286 business Queensland electricity customers on a Standard Retail Contract were charged and had paid a late payment fee of up to \$12.73 (exclusive of GST) (collectively, '**Affected Customers**').

QLD COMPETITION AUTHORITY

16 MAR 2021  
DATE RECEIVED

7. The collection of these late payment fees arose from a once-off upgrade to AGL's customer management and billing system on 21 January 2015 and was rectified on 5 August 2020 through AGL's release of an IT system fix.
8. On 30 September 2020, AGL reported the issue to the QCA.

***AGL's Response to the Late Payment Fee Incident***

9. AGL has cooperated fully with the QCA and displayed willingness to resolve this matter by:
  - (a) applying an account credit to value of late payment fees charged for all Affected Customers;
  - (b) using best endeavors to contact current and former AGL customers in relation to the issue;
  - (c) publishing an advertisement in the *Courier Mail* to bring awareness of the issue; especially to those Affected Customers whose contact details are no longer current; and
  - (d) the provision of this Undertaking to the QCA pursuant to Section 288 of the National Energy Retail Law.

***Commencement and Expiry the Undertaking***

10. This Undertaking comes into effect when
  - (a) The Undertaking is executed by AGL; and
  - (b) The QCA accepts the Undertaking so executed ('**Commencement Date**').
11. Upon the Commencement Date, AGL undertakes to assume the obligations set out in clauses 15 and 16 below.
12. This Undertaking expires on 31 December 2022.
13. AGL may apply to withdraw or vary any part of this Undertaking at any time, but this Undertaking will only be taken to be withdrawn or varied on the date at which the QCA consents to such withdrawal or variation.
14. The QCA may, if requested by AGL, expressly waive in writing any of the obligations contained in the Undertaking.

## ***Undertakings***

### *Progress Reporting*

15. During the period of this Undertaking, AGL undertakes to:
- (a) Report to the QCA on:
    - (i) the total number of Affected Customers that were still receiving retail services from AGL as at 2 November 2020 who have had late payment fees credited to their account, and the total dollar value of credits to these customers' accounts;
    - (ii) the total number of Affected Customers that had ceased receiving retail services from AGL as at 2 November 2020 who have had late payment fees credited to their AGL account, and who have contacted AGL and received a direct refund, and the total dollar value of refunds to these former customers;
    - (iii) the results of AGL's periodic review to monitor that late payment fees are not charged to small electricity customers in Queensland on a Standard Retail Contract.
  - (b) Each Progress Report must be submitted to the QCA no later than the last Business Day of the month immediately following the relevant reporting period.
  - (c) For the period until 30 June 2021, AGL will submit to the QCA each Progress Report on a monthly basis, and then on a quarterly basis thereafter until AGL's submission of its final Progress Report to the QCA on 31 December 2022 (for the period up to and including 1 November 2022).

### *Independent Audit*

16. During the period of this Undertaking, AGL undertakes to:
- (a) Engage, within a reasonable time but in any event no later than 30 June 2021, at its own expense, a suitably qualified Independent Auditor.
  - (b) Instruct the Independent Auditor to report on:
    - (i) AGL's data validation and reconciliation activities so as to confirm that AGL has identified all Affected Customers within AGL's billing and customer management system; and

- (ii) the efficacy of the IT system changes of 5 August 2020 to prevent future reoccurrences of the imposition of late payment fees for Queensland electricity customers on a Standard Retail Contract.
- (c) Use its best endeavours to implement reasonable recommendations made in the audit report.
- (d) Within 14 days of receiving the final audit report by the Independent Auditor, provide the audit report to the QCA.

**Acknowledgements**

- 17. AGL acknowledges that the QCA may make this Undertaking publicly available by publishing it on the QCA's website.

**Definitions**

- 18. Defined terms used in this Undertaking are set out below. Italicised terms used in this Undertaking have the meaning given to those terms in the National Energy Retail Law or the National Energy Retail Rules, as the case requires.

<b>Term</b>	<b>Meaning</b>
Affected Customers	has the meaning in clause 6 of this Undertaking.
Business Day	means a day that is not a Saturday or Sunday; or observed as a public holiday in the state of Queensland.
Commencement Date	has the meaning in clause 10 of this Undertaking.
Independent Auditor	means an appropriately qualified professional who must be able to act without bias and without any actual or potential conflicts of interest.
Progress Report	refers to any of AGL's periodic reports to the QCA as required under clause 15 of this Undertaking
QCA	Queensland Competition Authority
Relevant Period	has the meaning in clause 6 of this Undertaking.
Undertaking	means this document (including any schedules or annexures to this document) as varied from time to time under Section 288 of the National Energy Retail Law.

**Executed as an Undertaking**

Executed by AGL Sales Pty Ltd by its authorised officers pursuant to section 127(1) of the Corporations Act (Cth) 2001.

Director



Print name

**John Fitzgerald**

~~Director~~/Secretary



Print Name

**Melinda Hunter**

This 17 day of February 2020.

Accepted by the Queensland Competition Authority pursuant to Section 288 of the National Energy Retail Law.



Chairperson

Print name Flavio Menezes

This 18 day of March 2020.

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