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Ms Fiona Hooymans

General Manager

Market Surveillance Branch

Australian Energy Regulator

By email at: ContractMarketMonitoring@aer.gov.au

4 November 2025

Dear Ms Hooymans

**Submissions on the electricity wholesale monitoring powers and information requests
(MMIO-ELEC-2025-02)**

AGL Energy (**AGL**) welcomes the opportunity to provide written submissions to the Australian Energy Regulator (**AER**) in relation to the draft Market Monitoring Information Order (**MMIO**).

AGL appreciates the AER's collaborative approach to developing its market monitoring and reporting functions. AGL has undertaken significant work in obtaining feedback from its internal stakeholders on the draft MMIO for the purpose of preparing its submission.

AGL's submission, using the terms defined in the MMIO, is set out in **Appendix A** of this letter.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Leanne Hanna', written in a cursive, flowing style.

Leanne Hanna

Head of Competition Regulation and Strategy

Appendix A – AGL’s Submission on the MMIO

1.1. Electronic Platforms

AGL understands that items 4 and 5 of the Annual 01 request are related to Electronic Platforms used to enter into Contracts and on that basis does not make any submission in respect of those items. For the avoidance of doubt, we observe that any expansion of item 5 to additional Electronic Platforms could impose significant burden and inefficiency and should be subject to separate consultation.

1.2. Time period to respond

The AER should provide a longer period for responses for the recurring quarterly and annual submissions. AGL notes that the preparation of these responses involves a large number of internal staff, including a number of very senior staff, to prepare, collate and provide the requisite assurance for the data to be signed off by an authorised officer.

In particular, the AER’s proposed 1 February deadline for both annual and quarterly data categories would be very challenging given the need to prepare the relevant responses, verify and provide assurance and obtain sign-off for a response during January when a large number of Australians, including AGL staff, are on leave.

AGL requests that the AER provide until **14 February** for Class Members to provide a response to annual and quarterly submissions each year. This would provide Class Members with two working weeks in February each year to finalise a response to the annual and quarterly submissions.

For consistency, AGL suggests that the remaining quarterly routine submissions are due on 14 May, 14 August and 14 November.

In relation to the one-off and initial submissions as described in the current draft MMIO, AGL confirms that it is comfortable with the proposed timing of at least 3 months from the date of publishing the final Order.

1.3. Data security and confidentiality

AGL continues to have concerns regarding the large volume of highly sensitive information sought by the AER from both AGL and other market participants. The AER being provided with large volumes of highly sensitive information poses significant cybersecurity risks, including potential data breaches, that could expose confidential data. Unauthorised access to this information could lead to severe financial and reputational damage for the regulator, the entities involved and the industry more broadly.

AGL continues to request that the AER closely consider how it can reduce the type and volume of information sought, and otherwise reduce the risk of either a data breach or inadvertent disclosure (including any internal protocols on data handling and storage), and that the AER continues to assess in a careful manner the types of information that it needs to collect and how it stores that information.

1.4. Document retention requirements

AGL acknowledges the tweaks made by the AER to the information retention requirement to reduce the time period (from seven years to six) and to replace a reference to “*information used to prepare responses*” to information “*relied on to prepare the responses*”.

However, AGL continues to have concerns that the retention period is not based on information intrinsic to the relevant information itself (such as when the information was created, or modified) but instead is based on when information is provided to the AER. Accordingly, a bespoke approach would be required to retention of that particular information thereby increasing industry’s compliance costs.

An illustration of this is that the draft MMIO would require AGL to maintain and keep data relating to a contract entered into on 1 January 2021 and provided to the AER in February 2026, for **11 years**, until February 2032.

AGL submits that it would incur significant costs (including data storage costs) to meet this requirement as it would require AGL to adopt a bespoke approach to information retention for all information relied on to prepare the relevant response, including information stored in relevant databases.

AGL requests that the AER amends this requirement to allow Class Members to apply a retention policy based on information intrinsic to the relevant information itself, e.g., by setting information retention periods as the lesser of:

- Six years from the date the information is submitted to the AER; or
- Seven years from the date the relevant information was created or modified.

AGL notes that such an approach would be more aligned with other legislated requirements to retain information (e.g. for business records) and allow Class Members to reduce compliance costs.

1.5. Submission Portal

While AGL welcomes the changes made by the AER in MMIO-ELEC-02, we re-iterate our previous MMIO submission that failure to comply with the MMIO is a Tier 1 civil penalty provision under Section 18EL(1) of the National Electricity Law and if the portal is inaccessible for any reason (or if AGL is unable to access it for any technical reason) the solution currently proposed by the AER staff remains discretionary, dependent upon staff availability (including on public holidays and out of hours) and provides no comfort to AGL that appropriate allowances will be made if AGL is unable to upload data to the AER portal through no fault of its own. In our experience, it has also been common to have issues with government portals.

AGL submits that:

- The AER should maintain a record of any times during the response period when AER portal is inaccessible; and
- specify that, in the event that the AER Portal is inaccessible for any reason on the day a response is due (including if a participant is unable to access it for any technical reason) that the submission date for Class Members is automatically extended until the next business day. This will also save administrative time for both the Class Member and the AER.

This will result in Class Members not being unfairly prejudiced by an inability to comply with the Order in circumstances where failure to comply may have been caused by matters outside the Class Members' control such as AER system errors.

4 November 2025