



ActewAGL
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Mr Tom Leuner
General Manager, Market Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Dear Mr Leuner

ActewAGL response to AER NECF Compliance Issues Paper

Thank you for the opportunity to comment on the Australian Energy Regulator's (AER's) Issues Paper on its approach to compliance with the National Energy Retail Law, Rules and Regulations. ActewAGL appreciates the opportunity provided by the AER to make early comments on the AER's intended approach to developing the AER Compliance Procedures and Guidelines, given the importance of ensuring that compliance frameworks are effective, but at the same time do not impose unnecessary burdens on regulated businesses.

In developing the AER Compliance Procedures and Guidelines, it is important that the AER recognise the compliance frameworks and practices currently in operation in network and retail businesses. Network and retail businesses face a myriad of obligations beyond those anticipated in the new national framework, including environmental, financial, safety and technical obligations, for which they have in place detailed frameworks and practices to ensure ongoing compliance.

It is therefore important to ensure that the new procedures and guidelines do not impose detailed obligations that seek to direct the way that regulated businesses must achieve compliance with the new national framework, particularly by imposing specific compliance systems or procedures. The focus should instead be on compliance outcomes, and the demonstration of a strong compliance culture within each organisation.

ActewAGL supports the AER's aim to minimise the cost and burden of compliance reporting for regulated entities, and ultimately for customers, by only imposing reporting obligations where information cannot be obtained from other

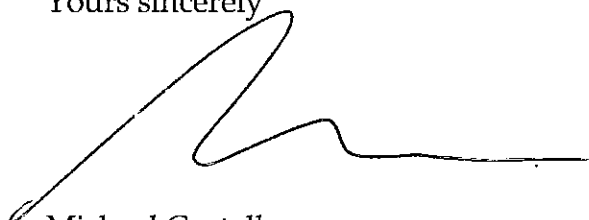
means, and where the potential gravity of a breach warrants such reporting. In this respect ActewAGL considers that routine compliance reporting should only be required on an annual basis for identified obligations, with more frequent reporting of specific breaches on an exceptions basis for types of breaches that are identified as significant. ActewAGL considers that this approach is consistent with the AER's intent set out in the Issues Paper to minimise the compliance burden on businesses, while also targeting compliance for "high impact" provisions.

Similarly, compliance audits should only be contemplated where the risk and impact of non-compliance with particular provisions is commensurate with the costs of conducting compliance audits. In this regard, ActewAGL considers that the intended Compliance Procedures and Guidelines should provide clarity as to those situations or circumstances where the AER will consider compliance audits to be appropriate.

ActewAGL notes that the transition to the national framework is likely to occur over time, with some jurisdictions applying the new national framework before others. The new framework also imposes new obligations on many businesses, which are likely to require new practices, procedures and extensive staff training to ensure compliance. The AER's approach to compliance and enforcement therefore needs to be flexible during the transition and recognise the compliance pressures that both of these conditions can place on businesses, particularly the potential for inconsistent obligations across jurisdictions during the transition stage. In addition, there is a need to ensure that compliance reporting obligations imposed by the AER and jurisdictional authorities are integrated to ensure that there is no duplication of obligations that lead to an unnecessary regulatory burden for businesses.

ActewAGL intends to make more detailed submissions in response to any draft guidelines prepared by the AER at the next stage of this process. Should you require further information on issues discussed in this submission, please contact Ms Bianca Latimore, Senior Pricing Analyst, on 02 6248 3013.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Costello', with a stylized, flowing script.

Michael Costello
Chief Executive Officer