

NATIONAL ELECTRICITY LAW

Undertaking to the Australian Energy Regulator for the purposes of section 59A of the National Electricity Law

by

AGL Energy Limited (ABN 74 115 061 375)

AGL PARF NSW Pty Limited (ABN 33 615 408 770)

AGL HP 1 Pty Ltd (ACN 080 429 901)

AGL HP 2 Pty Ltd (ACN 080 810 546)

AGL HP 3 Pty Ltd (ACN 080 735 815)

1. Persons giving this Undertaking

1.1. The Undertaking is given to the Australian Energy Regulator (**AER**) by:

- 1.1.1. AGL Energy Limited (ABN 74 115 061 375) (**AGL**) of 200 George Street, Sydney NSW 2000;
- 1.1.2. AGL PARF NSW Pty Limited (ABN 33 615 408 770) (**AGL PARF**) of 200 George Street, Sydney NSW 2000;
- 1.1.3. AGL HP 1 Pty Ltd (ACN 080 429 901) (**AGLHP1**) of 200 George Street, Sydney NSW 2000;
- 1.1.4. AGL HP 2 Pty Ltd (ACN 080 810 546) (**AGLHP2**) of 200 George Street, Sydney NSW 2000; and
- 1.1.5. AGL HP 3 Pty Ltd (ACN 080 735 815) (**AGLHP3**) of 200 George Street, Sydney NSW 2000

(together, the **AGL Entities**)

for the purposes of section 59A of the NEL.

2. Background

2.1. AGLHP1, AGLHP2 and AGLHP3 (**AGL Hydro Entities**) currently are Generators registered under the National Electricity Rules (**NER**) in respect of the Broken Hill Solar Plant (**BHSP**). The registration is held by AGL Hydro Entities in its capacity as intermediary for the Owner.

Generator performance standard obligations

2.2. AGL Hydro Entities, as the holders of the generator registration for BHSP, is required to:

- 2.2.1. ensure that its plant:
 - a) meets or exceeds its applicable performance standard (rule 4.15(a)(1) NER);
 - b) is not likely to cause a material adverse effect on power system security through its failure to comply with a performance standard (rule 4.15(a)(2) NER); and

- c) ceases to be likely to cause a material adverse effect on power system security through its failure to comply with a performance standard (rule 4.15(a)(3) NER).

2.2.2. plan and design its facilities and ensure that they are operated to comply with the applicable performance standards (clause 5.2.5 NER).

- 2.3. Modelling undertaken in 2019 showed that under certain conditions, it was possible that BHSP would not comply with its generator performance standards in relation to frequency control matters referred to in clause S5.2.5.11, in breach of rule 4.15 and clause 5.2.5 of the NER. A non-compliance matter “NC2019082” was opened in relation to this issue.
- 2.4. In the intervening period, AGL Hydro Entities, the Owners and their relevant contractors and consultants have engaged with TransGrid and AEMO to resolve this issue. However, as at the date of this Undertaking, the issues have not been resolved.
- 2.5. During this process the *National Electricity Amendment (Mandatory Primary Frequency Response) Rule 2020* rule change took effect, requiring all scheduled and semi-scheduled generators to implement primary frequency response (**PFR**) settings. In accordance with the rule change, AGL Hydro Entities submitted a self-assessment to AEMO, indicating that PFR settings would be implemented at BHSP through making certain power plant controller logic changes (**PFR Changes**).
- 2.6. AEMO has agreed the PFR Changes will be effective for the purposes of implementing PFR settings at BHSP in accordance with the rule change. Further, AGL Hydro Entities anticipate that implementation of the PFR Changes will also be effective to resolve NC2019082.

Conduct of concern to the AER and next steps

- 2.7. The AER is concerned that, as at the date of this Undertaking, non-compliance NC2019082 in respect of BHSP is still open (**AER Concerns**).

3. Acknowledgement and resolution

- 3.1. The AGL Entities acknowledge the AER Concerns and offer the Undertaking in clause 6, to resolve the AER Concerns and to take necessary steps to make the relevant plant compliant with the performance standard as swiftly as possible.

4. Commencement of the Undertaking

- 4.1. This Undertaking comes into effect when:

- 4.1.1. this Undertaking is executed by the AGL Entities; and
- 4.1.2. the AER accepts the Undertaking so executed,

(**Commencement Date**).

- 4.2. On and from the Commencement Date, the AGL Entities undertake to assume the obligations in clause 6.

5. Expiry and variation

- 5.1. This Undertaking expires (**Expiry Date**) once the AGL Entities have completed each of its obligations set out in clause 6, and the AER has accepted that these obligations have been completed by the AGL Entities.
- 5.2. The AGL Entities may apply to withdraw or vary the Undertaking at any time, but this Undertaking will only be taken to be withdrawn or varied on the date on which the AER consents to such withdrawal or variation.
- 5.3. The AER may, if requested by the AGL Entities, expressly waive (unconditionally or on conditions required by it) in writing any of the obligations contained in the Undertaking or extend the date by which any such obligation is to be satisfied.

6. Undertakings

- 6.1. For the purposes of section 59A of the NEL, each of the AGL Entities that is a registered Generator in respect of BHSP undertakes to take the following steps:
- 6.1.1. submit a proposal pursuant to clause 5.3.9 of the NER (**NER 5.3.9 Proposal**) to TransGrid in respect of the implementation of changes to the BHSP power plant controller (**PPC**) logic settings and the PFR Changes noted above, on or prior to 28 October 2022;¹
 - 6.1.2. update the PPC model to include correct droop logic and PFR Changes as specified in the NER 5.3.9 Proposal, and submit a report that includes model simulation and changed PPC logic settings to TransGrid on or prior to 28 October 2022;
 - 6.1.3. submit a written notice to TransGrid requesting TransGrid's written approval of the updated PPC model on or prior to 28 October 2022;
 - 6.1.4. within two months after TransGrid gives written notice to AGL of its approval of the updated PPC model, update the PPC in line with the updated model to include droop logic and PFR settings changes;
 - 6.1.5. complete plant testing to confirm the correct operation of the updated PPC to confirm it is operating correctly, and submit the test report to TransGrid within two months of approvals being obtained from TransGrid and AEMO;
 - 6.1.6. submit to AEMO and TransGrid a written request for approval of the updated PPC and PFR Changes by TransGrid and AEMO so as to resolve non-compliance matter "NC2019082" within four weeks after the completion of the steps articulated above.
- 6.2. To avoid doubt, an AGL Hydro Entity is subject to the obligations under paragraphs 6.1 while it is a registered Generator in respect of BHSP, and AGL PARF will be subject to the obligations under paragraph 6.1 once it becomes a registered Generator in respect of BHSP.
- 6.3. Where a dispute arises between an AGL Entity and TransGrid or between an AGL Entity and AEMO in connection with approval of TransGrid or AEMO sought by the AGL Entity as referred to in paragraph 6.1:
- 6.3.1. The AGL Entity must notify the AER of the dispute within [5] Business Days of the occurrence of the dispute;
 - 6.3.2. The AGL Entity must negotiate in good faith with TransGrid or AEMO to resolve the dispute; and
 - 6.3.3. Where rule 8.2 of the NER applies to the dispute,
 - a) if the dispute is not resolved with [20] Business Days of the occurrence of the dispute and in the AGL Entity's reasonable opinion the dispute is unlikely to be resolved within the timeframe specified in clause 8.2.4(b) of the NER, the AGL Entity must activate the dispute resolution mechanisms under rule 8.2 in accordance with clause 8.2.4; and
 - b) if clause 8.2.4(i)(1) or (2) applies to the dispute, the AGL Entity must within the timeframe specified in clause 8.2.4(i) refer the dispute to the Adviser in accordance with 8.2.5 of the NER.
- 6.4. The AGL Entities undertake to provide quarterly status reports to the AER, starting three months after the acceptance of this Undertaking by the AER in relation to the parties' progress in implementing the steps set out in paragraph 6.1, setting out details of the actions

¹ We note that as at the date of this Undertaking a NER 5.3.9 Proposal has been submitted and accepted by TransGrid.

taken in accordance with this Undertaking, any issues arising in taking actions in accordance with this Undertaking, and the actions the AGL Entities took to address these issues.

- 6.5. The AGL Entities undertake to notify the AER within 15 days of the completion of each step set out in paragraph 6.1 having been completed, and to provide the AER with the relevant document(s) necessary to verify the completion of each step.
- 6.6. Where an AGL Hydro Entity is a registered Generator in respect of BHSP, AGL, AGL PARF and any other AGL Entities that are a Related Body Corporate of the AGL Hydro Entity will procure that the AGL Hydro Entity meets its obligations under this Undertaking. Where AGL PARF becomes a registered Generator in respect of BHSP any other AGL Entity that is a Related Body Corporate of AGL PARF will procure that AGL PARF meets its obligations under this Undertaking.

7. Acknowledgements

7.1. The AGL Entities consent and acknowledge that:

- 7.1.1. the AER may authorise a member of the AER or a member of the AER staff, to exercise a decision making function under this Undertaking on its behalf and that authorisation may be subject to any conditions the AER may impose;
- 7.1.2. the AER will make this Undertaking publicly available including by publishing it on the AER's website, but other documents referred to in this Undertaking which are not publicly available will not be made publicly available by the AER;
- 7.1.3. the AER will, from time to time, make public reference to the Undertaking in news media statements and in AER publications, but the AER will not make substantive reference to the contents of any documents referred to in this Undertaking which are not publicly available;
- 7.1.4. the AER reserves its rights and remedies (including to institute legal proceedings against the AGL Entities seeking penalties and other relief) in relation to any breaches of the NER or NEL which have occurred before or after the Commencement Date, including in respect of matters referred to in this Undertaking; and
- 7.1.5. this Undertaking in no way derogates from the rights and remedies available to any other persons arising from the alleged conduct.

8. Costs

8.1. The AGL Entities must pay their own costs in relation to this Undertaking.

9. Notification

9.1. Any notice or communication to the AER pursuant to this Undertaking must be sent to:

Name: General Manager – Compliance & Enforcement

Address: Australian Energy Regulator

GPO Box 520

Melbourne VIC 3001

Email: Attn: GM Compliance & Enforcement AERCompliance@aer.gov.au

9.2. Any notice or communication to the AGL Entities pursuant to this Undertaking must be sent to:

Name: [REDACTED]

Address: [REDACTED]

Email: [REDACTED]

9.3. AGL must notify the AER of a change to its contact details within five Business Days.

10. Definitions

10.1. Terms used in this Undertaking are set out below.

Term	Meaning
AER	has the meaning given to that term in clause 1.
Adviser	has the meaning given to that it in Chapter 10 of the NER.
AER Concerns	has the meaning given to that term in clause 2.7.
AEMO	means the Australian Energy Market Operator.
AGL	has the meaning given to that term in clause 1.
AGL Entities	has the meaning given to that term in clause 1.
AGL Hydro Entity	has the meaning given to that term in clause 2.1.
AGL PARF	has the meaning given to that term in clause 1.
BHSP	has the meaning given to that term in clause 2.1.
Business Day	has the meaning given to it in Chapter 10 of the NER.
Commencement Date	has the meaning given to that term in clause 4.

Term	Meaning
Expiry date	has the meaning given to that term in clause 5.
Generator	has the meaning given to that term in the NER.
LDC	has the meaning given to that term in clause 6.
NEL	<p>means the National Electricity Law set out in the Schedule to the <i>National Electricity (South Australia) Act 1996</i> of South Australia, as in force for the time being which, pursuant to section 6 of the <i>National Electricity Act (New South Wales) 1997</i>:</p> <p>(a) applies as a law of New South Wales, and</p> <p>(b) as so apply, may be referred to as the <i>National Electricity (NSW) Law</i>.</p>
NER	means the National Electricity Rules made under the NEL.
NER 5.3.9 Proposal	Has the meaning given to that term in clause 6.1.1.
Owner	means the owner of BHSP, namely PARF Company 6 Pty Ltd.
PFR	has the meaning given to that term in clause 2.5.
PFR Changes	has the meaning given to that term in clause 2.5.
PPC	has the meaning given to that term in clause 6.
Related Bodies Corporate	has the meaning given to it by section 50 of the <i>Corporations Act 2001</i> (Cth)
TransGrid	means the Transmission Network Service Provider for BHSP and the party with which the AGL Entities have a transmission connection agreement.

Term	Meaning
Undertaking	means this document (including any schedules, attachments or annexures to this document) as varied from time to time under section 59A of the NEL.

11. Interpretation


11.1. In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:

- 11.1.1. a reference to this Undertaking includes all of the provisions of this document including its annexures;
- 11.1.2. headings are inserted for convenience only and do not affect the interpretation of this Undertaking;
- 11.1.3. if the day on which any act, matter or thing is to be under this Undertaking is not a Business Day, the act, matter or thing must be done on the next Business Day;
- 11.1.4. a reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- 11.1.5. a reference in this Undertaking to any company includes a company over which that company is in a position to exercise control within the meaning of section 50AA of the *Corporations Act 2001*;
- 11.1.6. a reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;
- 11.1.7. a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
- 11.1.8. an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or government agency;
- 11.1.9. where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- 11.1.10. a word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes other genders;
- 11.1.11. a reference to the words 'such as', 'including', 'particularly' and similar expressions can be construed without limitation;
- 11.1.12. a construction that would promote the purpose or object of this Undertaking (whether expressly stated or not) will be preferred to a construction that does not promote that purpose or object.
- 11.1.13. a reference to:
 - a) a thing (including but not limited to, a chose in action or other right) includes part of that thing;

- b) a party includes its successors and permitted assigns; and
- c) a monetary amount is in Australian dollars.

Executed by

AGL Energy Limited (ABN 74 115 061 375) pursuant to section 127(1) of the *Corporations Act 2001*.



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Patricia McKenzie

Director



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Melinda Hunter

Secretary

This.....13th.....day of October 2022.

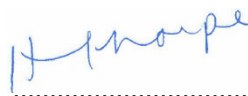
AGL PARF NSW Pty Limited (ABN 33 615 408 770) pursuant to section 127(1) of the *Corporations Act 2001*.



.....

Melinda Hunter

Director



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Hilary Thorpe

Secretary

This.....13th.....day of October 2022.

AGL HP 1 Pty Ltd (ACN 080 429 901) (pursuant to section 127(1) of the *Corporations Act 2001*).



.....
Melinda Hunter

Director



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Hilary Thorpe

Secretary

This.....13th.....day of October 2022.

AGL HP 2 Pty Ltd (ACN 080 810 546) (pursuant to section 127(1) of the *Corporations Act 2001*).



.....
Melinda Hunter

Director



.....
Hilary Thorpe

Secretary

This.....13th.....day of October 2022.

AGL HP 3 Pty Ltd (ACN 080 735 815) (pursuant to section 127(1) of the *Corporations Act 2001*).



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Melinda Hunter

Director



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Hilary Thorpe

Secretary

This.....13th.....day of October 2022.

ACCEPTED BY THE AUSTRALIAN ENERGY REGULATOR PURSUANT TO SECTION 59A OF THE NATIONAL ELECTRICITY LAW.



.....
Clare Savage – Chair

This.....25th.....day of.....October.....2022.