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Shelley Schreiner

Chief Executive Officer

Independent Competition and Regulatory Commission

GPO Box 296

Canberra City ACT 2601

28 October 2008

**Implementation of GreenPower Initiative:
Proposed Electricity Retail Licence Conditions**

Dear Ms. Schreiner,

AGL welcomes the opportunity to comment on the Implementation of Green Power Initiative: Proposed Electricity Retail Licence Conditions, about which you invited submissions from AGL by letters dated 23 September 2008 to AGL's various ACT licensed entities.

AGL's comments on the changes that the ICRC proposes to make to electricity retailers' standard utilities electricity supply licence provisions are attached. This submission is on behalf of AGL Sales Pty Limited, AGL Sales (Queensland Electricity) Pty Limited and Powerdirect Pty Ltd.

AGL would welcome the opportunity to discuss its submission with the ICRC. Please do not hesitate to contact Karen Marshall, Green Reporting and Regulation Analyst on 03 8633 6808 or by email karen.marshall@agl.com.au, or me, if you would like to discuss any aspect of this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Molyneux".

Elizabeth Molyneux
General Manager, Energy Regulation

- > 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

AGL's detailed comments on

Implementation of GreenPower Initiative:

Proposed Electricity Retail Licence Conditions

While AGL understands and supports the policy objectives that the Minister for Environment, Water and Climate Change and the Independent Competition and Regulatory Commission are seeking to achieve through the ACT Green Power Initiative, AGL's concerns centre around the implementation of the initiative. These concerns are detailed below:

1. Practical results may be contrary to policy objective

AGL is concerned that marketing its most expensive product at first instance to all customers is likely to have the effect of dissuading many customers from considering the purchase of green products at all, which would be contrary to the intention behind the Green Power Initiative.

AGL has accredited products which it actively markets to its customers. AGL has three GreenPower accredited products: AGL Green Energy (a 100% accredited product), AGL Green Living (a 20% accredited product) and AGL Green Spirit (a 10% accredited product). This suite of products allows customers to choose to what extent they contribute to greenhouse gas emission reductions, while at the same time managing their budgets.

Offering the most expensive product upfront may turn a prospective customer away from Green Products altogether and result in lost marketing opportunities. Trained marketers who may have access to a particular customer's usage and circumstances would be in a better position to determine which of the three accredited products a customer is most likely to sign up to.

Hence in AGL's view, the proposed amended licence conditions in their current form may lead to results that are contrary to the GreenPower Initiative's stated policy objectives of the promotion of ecologically sustainable development in the provision of utility services.

2. The proposed licence changes go beyond policy requirements

AGL is of the view that the proposed licence changes requiring retailers to offer a 100% accredited product to all customers goes beyond the scope of the Ministerial Direction pursuant to which the ICRC is proposing to vary retailers' licences, which simply requires that retailers offer all customers a product that allows their electricity supply to be met by an accredited product.

While the Ministerial Direction states that the initial offering of the accredited product must constitute the full electricity supply of the customer, there is no requirement that the accredited product be obtained solely from an accredited renewable energy source (ie. that the product be a 100% accredited product).

AGL has therefore interpreted the proposed legislation to mean that a 100% of the accredited portion of the product must be from fully accredited sources and not that a 100% accredited product must be offered at first instance. For example, a 20% green product, 100% of the 20% should be accredited and offering such a product first would be in line with the Ministerial Direction.

The National GreenPower programme in fact provides accreditation in respect of products offered by GreenPower providers with a minimum of 10% of green power content.

AGL considers that the ICRC could in fact better achieve the intention of the GreenPower Initiative while still remaining within the scope of the Ministerial Direction by removing the requirement that the product that retailers offer to customers be 100% GreenPower accredited.



3. Implementation of the licence variations would require sufficient time

The requirement for all retailers to commence offering a 100% accredited product to all classes of customers by no later than 1 January 2009 is impractical given that the detail of the proposed change was circulated in the last week of September and there is significant ambiguity in several areas as detailed in this submission.

The ICRC should note that business decisions were based on the interpretation of the Ministerial Direction above. Therefore retailers, especially second tier retailers such as Powerdirect, which do not currently offer or promote GreenProducts would now have to complete major systems and process changes including the development of collateral (product disclosure statements, contract forms and other such pieces of documentation) and the development of appropriate billing and IT functionality to be able to comply with the proposed licence changes.

The ICRC should be mindful of the potential magnitude of the new processes that retailers may need to implement in order to comply with the proposed licence changes. AGL considers that the ICRC needs to allow sufficient time for retailers to implement systems and process changes without causing undue disruption to retailers' usual business activities.

As well as the time and cost implications of the necessary process and system changes, it is also important for the ICRC to note that complying with the proposed licence changes in the amount of time that the ICRC proposes to allow is likely to cause major disruptions and have a significant revenue impact on second tier retailers such as Powerdirect. For example, as a consequence of the New South Wales 10% GreenPower scheme, Powerdirect has ceased all marketing to New South Wales residential customers.

Accordingly if the ICRC is to proceed with the proposed licence variations, the time frames should be extended to allow retailers to plan and implement crucial systems, collateral and processes updates to ensure the success of these products in the context of retailers' usual business activities, and the greatest chance of the achievement of the objectives of the initiative.

4. Ambiguities in interpretation of proposed licence changes

AGL has identified a number of ambiguities in the content and application of the ICRC's proposed licence changes that the ICRC should finalise prior to any licence changes taking effect.

For example:

- Definitions under clause 4.1.1 of the proposed licence changes state that full electricity supply means supply equivalent to (1) 100 per cent of the customer's electricity consumption; or (2) the Australian average household electricity consumption as defined by the National GreenPower Accreditation Program Rules. These two values are potentially at odds with each other, in that one would require a product to be fully sourced from accredited renewable energy sources while the other would allow a product to be partially sourced from accredited renewable energy sources in cases where the customer's consumption exceeds the Australian average household electricity consumption.

- Clause 4.2.1 (d) of the proposed licence changes suggests that retailers may offer a 100% Green Power accredited product under a standard form customer supply contract. Such a suggestion is inconsistent with the nature of standard term contracts which by definition offer regulated tariffs only.

Summary

AGL believes that the licence changes in their current form that are proposed by the ICRC are not necessary to give effect to the National GreenPower scheme and go beyond the Ministerial Direction under which the ICRC is making the proposed licence changes. In fact, the proposed changes implemented in their current form could lead to results contrary to the objectives of the ACT Green Power Initiative. AGL believes that the ICRC would in fact better achieve the intention behind the Green Power Initiative by modifying the requirement that the product offered to customers be a 100% accredited product and limiting this initiative to small residential customers.

AGL considers that requiring retailers to offer a product with a lesser green power accredited content than 100% would be likely to have a higher rate of take up by residential customers than a 100% accredited product, and therefore have a greater net positive impact upon the environment.

If the ICRC is minded to proceed with changes to retailers' licences, AGL considers that at a minimum, the ICRC needs to provide retailers with sufficient time before the requirements take effect to allow changes to be made without substantial impact to retailers' businesses.