

12 May 2017

Mr Alex Kroon
The Economic Regulation Authority
Level 4, Albert Facey House,
469 Wellington Street,
PERTH WA 6000

Dear Mr Kroon

Consultation on AGL Sales Pty Ltd's standard form contract

Thank you for the opportunity to comment on AGL Sales Pty Ltd's (AGL) proposed standard form contract (SFC) for the supply of gas to small use customers.

My comments are as follows:

1. Clause 4.5 (cooling-off period) apparently contemplates that the SFC may be used for "door to door marketing". To the extent that AGL makes unsolicited approaches to consumers, AGL will also need to comply with the "unsolicited consumer agreement" provisions in Part 3-2, Division 2 of the Australian Consumer Law (ACL). Among other things this will require the inclusion of certain information and prominent notices (see s.79 of the ACL). As the *entire* document comprising the standard form contract is required to be submitted to the Authority for approval under the *Energy Coordination Act 1994*, if AGL is to use this SFC for unsolicited approaches to consumers, AGL must therefore also submit the additional contractual material required for compliance with the "unsolicited consumer agreement" provisions of the ACL, so that the Authority may consider the entire SFC package.
2. In clause 7 (Our liability) of the SFC, AGL may wish to consider adding an express statement to clarify that nothing in the SFC excludes, limits or modifies any *consumer guarantees* that may be available to the customer under the ACL. While AGL has prefaced its exclusions and limitations of liability in clause 7 of the SFC with the words "to the extent permitted by law", there is a risk that consumers may nonetheless be misled (contrary to section 18 of the ACL) into thinking that they do not have their statutory *consumer guarantees*. By making an express clarification statement of the kind indicated above (which is relatively common in standard form contracts by other energy retailers), this can put the matter beyond doubt (in the interests of both parties).

Please do not hesitate to contact me if you have any questions in relation to this submission.

Yours sincerely

Stephen Stockwell