

# AGL ADMINISTRATIVE UNDERTAKING AUDIT SUMMARY AND COMMISSION'S RESPONSE


In August 2015, the Essential Services Commission (“the Commission”) accepted an administrative undertaking (“the Undertaking”) from Australian Power and Gas Pty Limited (“APG”) and AGL Sales Pty Limited (“AGL”), regarding disconnection warning notices issued by AGL and APG over a five year period, which did not comply with clause 13.1 of the Energy Retail Code.



The Undertaking committed AGL to carry out a series of steps to identify and contact customers who were disconnected after receiving a non-compliant notice (“Relevant Customers”) and reach an agreement to settle the matter. As part of the Undertaking, AGL agreed to provide written assurances to the Commission that the problems which led to the non-compliance had been resolved, and that mechanisms were implemented to ensure the issue did not recur, along with an assurance relating to its record keeping processes. AGL was also required to provide monthly reports to the Commission on its progress with the Undertaking.

The Undertaking was subject to audit after completion and EY were engaged under a tri-partite audit deed to assess AGL’s compliance with the Undertaking.

## BASIS FOR REPORTING

A traffic light system is used to report the auditor’s assessment of overall compliance in obligation areas as follows:

Grade	Description	Definition
	Non-compliant	The requirements of the obligation have not been met, or adequate, relevant and suitable information to form an objective determination on compliance was not available to demonstrate compliance. Findings noted are considered material in nature and require urgent remedial action.

	Partially Compliant	Key requirements of the obligation have been met but only minor achievements in compliance have been demonstrated. Findings noted are considered significant and require substantial effort to correct.
	Generally Compliant	Most requirements of the obligation have been met with some minor failures or breaches. Findings noted are considered minor and require routine efforts to correct in the normal course of business.

## AGL ADMINISTRATIVE UNDERTAKING AUDIT FINDINGS

The audit consisted of 17 key areas.

- Twelve areas were graded Generally Compliant - these included publishing a newspaper and website notice, identifying and notifying current Relevant Customers, reporting obligations, advising customers of their right to take the matter to the Energy and Water Ombudsman, processing of payments, system changes and controls and record keeping processes.
- One area was graded Partially Compliant - this was in regards to the notification statement applied to affected customer's bills.
- No areas were graded Non-Compliant.
- Four areas were not assigned a grade for reasons explained in section 1 under Summary of Key Findings - these related to the identification and notification of APG former and current Relevant Customers.

## SUMMARY OF KEY FINDINGS

This section summarises the areas deemed Partially Compliant and where no grade was assigned.

### 1. APG customer identification and notification

*Clause 2.1.3 of the Undertaking required AGL for any former Relevant Customer that can be accurately identified in AGL's systems, send letters to such customers advising that they may have an entitlement to claim a monetary payment arising from their disconnection and inviting them to contact AGL to discuss their potential entitlement.*

The auditors noted that AGL was unable to accurately identify former Relevant Customers, as not all customer information such as service order history was transferred to AGL systems following the APG customer migration in 2014. If this information had been migrated, it would have allowed AGL to identify which customers received a defective disconnection notice. As a result of AGL not being able to accurately identify APG former Relevant Customers, AGL was unable to notify these customers by letter of their potential entitlement to claim a monetary payment.

In determining the grading to be applied to AGL's compliance with this clause, it was agreed between the auditors, the Commission and AGL that no grading would be provided due to differences in the interpretation of clause 2.1.3.

The Commission does not believe that AGL has strictly complied with the broad intent of clause 2.1.3, which was that AGL should communicate with former Relevant Customers regarding their potential entitlement to claim a payment.

AGL believes that it could not communicate with former Relevant Customers, as they could not be accurately identified in AGL's systems due to data limitations. However, the Commission notes that these data limitations are a result of AGL's decision not to deem important APG customer data as critical when they migrated these customers to AGL's systems.

The Commission considers that AGL's decision to deem customer service order history information in particular as "non-critical" had the potential to cause detriment to 267,000 customers. The Commission notes that AGL made this decision and transferred the APG customer data to AGL systems 16 months before it entered into the Undertaking.

## 2. Customer bill statements



*Clause 2.1.4 of the Undertaking required AGL to apply a statement to the bills of each current Relevant Customer advising that they may have an entitlement to claim a monetary payment arising from their disconnection and inviting them to contact AGL to discuss their potential entitlement.*

The auditors identified that one [1] affected current customer sampled out of twenty five [25] did not receive a bill containing a statement to this effect.

AGL advised the Commission that this was due to a system failure which resulted in the statement not appearing on the bill and that in total 25 customers were affected. AGL will now contact the customers who did not receive a bill statement as required under the Undertaking.

The Commission acknowledges the audit finding and will continue to monitor AGL's compliance with clause 2.1.4 of the Undertaking by seeking confirmation that AGL has sent the required statement to affected Relevant Customers.

## COMMISSION'S RESPONSE

The Commission is concerned that AGL did not reveal that all relevant customer data had not been transferred to its systems, either during the formation of the Undertaking, or while AGL were implementing the Undertaking.

As data required to accurately identify Relevant Customers was not transferred to AGL's systems, former APG customers were not adequately informed of their possible entitlements arising from their receipt of a non-compliant disconnection warning notice.

The Commission is also concerned that it only became aware of these data limitations during the audit of AGL's compliance with the Undertaking. No other steps to identify and contact former Relevant Customers were proposed by AGL prior to the completion of the Undertaking.

Retailers must comply with the conditions of their licence and be able to demonstrate compliance with all licence conditions, including compliance with the Energy Retail Code. When an energy licensee acquires another licensed energy business, it assumes responsibility for ensuring the compliance obligations of the acquired business, including the remediation of any past non-compliance are met.

If a licensee wishes to transfer the customers of the acquired business to its own operating systems, all relevant customer information of the business being acquired

must be transferred to enable the licensee to demonstrate compliance and to remediate any past non-compliance.

The Commission notes that the details of the process relating to the transfer of relevant customer data from APG to AGL were not the subject of the Undertaking. The Commission also notes that in this particular case the Undertaking was entered into before it was granted its new enforcement powers.

The Commission therefore considers that the audit is now finalised, and the Undertaking closed subject to:

- a) The satisfactory fulfilment by AGL of clause 2.1.4 of the Undertaking
- b) The ongoing entitlement of any affected Relevant Customers to take any dispute they are unable to resolve with AGL to the Energy and Water Ombudsman.