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Mr Matthew Schroder

General Manager Infrastructure & Transport – Access & Pricing Branch

Australian Competition and Consumer Commission

By email: [transport@acc.gov.au](mailto:transport@acc.gov.au)

25 June 2020

Dear Matthew,

### **ARTC 2017 compliance assessment for the HVAU**

AGL Energy Limited (**AGL**) welcomes the opportunity to comment on the Australian Competition and Consumer Commission (**ACCC**) Consultation Paper on the Australian Rail Track Corporation's (**ARTC**) 2017 compliance assessment for the Hunter Valley Access Undertaking (**HVAU**).

AGL is one of Australia's leading integrated energy companies and the largest ASX listed owner, operator, and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources. AGL is also a significant retailer of energy and provides energy solutions to over 3.6 million customers across the National Electricity Market and Western Australia.

In the Hunter Valley, AGL's assets include the 2,640 MW Bayswater and 2,000 MW Liddell coal fired power stations, the 50 MW Hunter Valley gas turbines, and the Liddell solar thermal project. Additionally, AGL is the largest domestic user of the Hunter Valley rail network.

AGL offers the following comments on the 2017 compliance assessment, noting that we do not consider these to be significant:

*Consultation question 1, the amount of over-recovered revenue or the process undertaken by ARTC to return the over-recovered revenue to stakeholders in recent years?*

The ACCC has stated it "considers it is in access seekers' interests to receive any rebates resulting from the 'unders and overs' adjustments in the Compliance Assessment process in a timely manner",<sup>1</sup> however there is no definition or common understanding of what constitutes 'timely'. AGL appreciate that ARTC is aware of this issue and plans to address the process.

Given the HVAU will be reviewed shortly, AGL suggest it is worth considering whether to define timeframe in which rebates must be provided and clarifying whether access holders are entitled to a pro rata share of interest.

*Consultation question 5, whether the level of operating expenditure incurred by ARTC during the 2017 compliance period was incurred in an efficient manner (as defined in section 14 of the HVAU), including*

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<sup>1</sup> ACCC, *Decision, Australian Rail Track Corporation's application to vary the 2011 Hunter Valley Access Undertaking*, 29 November 2018, p. 49.



*ARTC's maintenance, business unit management, corporate overhead and network control costs, as well as its loss on disposals?*

AGL note the large increase in operating expenditure (OPEX) resulting from increased business unit management costs but it is difficult to comment on the efficiency or otherwise of these costs. The HVAU definition of 'Efficient' attempts to set an objective test to assess the costs incurred by a 'prudent service provider', however we consider this can still be assessed subjectively. The objective or subjective nature of this assessment is worth clarifying in the next iteration of the HVAU.

If you have any queries about this submission or require further information, please contact Liz Gharghori at [lgharghori@agl.com.au](mailto:lgharghori@agl.com.au) or on 03 8633 6723.

Yours sincerely,

Chris Streets  
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