

## AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

### *Competition and Consumer (Gas Market Emergency Price) Order 2022 (Cth)*

#### **Price Cap Exemption Granted**

Pursuant to subsection 19(1) of the *Competition and Consumer (Gas Market Emergency Price) Order 2022 (Cth)* (the Order), the Australian Competition and Consumer Commission (the ACCC)<sup>1</sup>, has decided to grant AGL Upstream Gas (MOS) Pty Ltd (the Exempted Party) a price cap exemption (the Exemption) from the following subsection(s) 8(1), 8(2), 8(3) of the Order.

The Exemption is in force during the period from 22 March 2023 and ceases to be in force at the end of 23 December 2023.

The ACCC has formed the view that it is appropriate to grant this exemption based on the Exempted Party's current circumstances as set out in the documents and materials provided to the ACCC. Should the ACCC become aware of any material change in those circumstances, it may review the Exemption and consider whether it is appropriate that the exemption should be varied or revoked under s22(1) of the Order.

A material change in circumstance would include, but is not limited to:

- The Exempted Party entering into any agreement to sell all or part of its interest in the Silver Spring's Facility;
- Any increase in the amount of regulated gas acquired from the Silver Springs Facility above a threshold of 2 PJ;
- The Exempted Party acquiring or entering into any agreement to acquire any interest in any regulated gas producer, or otherwise becoming in any way concerned in the production of regulated gas from any facility other than the Silver Springs Facility;
- The Exempted Party supplying regulated gas produced at the Silver Springs Facility directly to a person who is not a related body corporate.

The Exemption is subject to the following conditions:

#### **1.0 Condition 1 – Notification**

1.1 The Exempted Party must notify the ACCC in writing within 10 business days of entering into any agreement for the sale of all or part of its interest in the Silver Springs Facility.

1.2 The Exempted Party must notify the ACCC in writing of any material change to its circumstances, or material changes to information specified in the Exempted Party's application or further information response within 10 business days of the change.

#### **2.0 Condition 2 – Reporting and provision of information**

2.1 The Exempted Party must report to the ACCC, within 10 business days of entering the agreement, the volume and price of any gas to be supplied under a gas supply agreement that the Exempted Party enters into during the period of the Order for supply of gas of greater than or equal to 0.5 petajoules (PJ) per annum.

2.2 The Exempted Party must, within 10 business days of the request, provide any information requested by the ACCC in relation to

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<sup>1</sup> The power to grant an exemption in writing from any or all of subsections 8(1), (2) and (3) of the Order was delegated to the ACCC on 23 December 2022.

- 2.2.1 the volume of regulated gas supplied by the Exempted Party during the term of this exemption;
- 2.2.2 the persons to whom and the terms on which such gas was supplied; and/or
- 2.2.3 The volume of gas produced by or acquired from the Silver Springs Facility; and/or
- 2.2.4 any matter which the ACCC considers might give rise to a material change in circumstances

The ACCC has made this decision based on information available at this time, and has had regard to the matters in subsection 19(2) of the Order and the Exempted Party's application and further information response and additional information response provided, including in relation to the volume of gas produced by the Exempted Party.

Dated 22 of March 2023