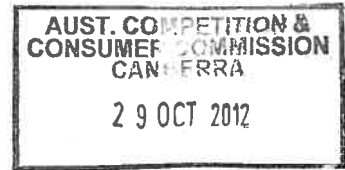


Australian Power & Gas

26 October 2012

Mr. Richard Chadwick
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

FILE No:
DOC:
MARS/PRISM:



Dear Mr. Chadwick

Notification of Exclusive Dealing: Australian Power and Gas Pty Ltd (Australian Power and Gas)

I refer to the above third line forcing notification (**Notification**) lodged by APG on **15 October 2012**.

APG makes this further short submission to clarify the entity within the Auto & General group of companies that is in fact the underwriter of the insurance services the subject of the Notification.

The conduct sought to be notified remains the same, namely that Australian Power and Gas proposes to offer residential customers a credit of either \$75 or \$100 on the supply of gas and/or electricity on the condition that the customer obtains insurance services.

However, those insurance services are to be provided by the underwriter Auto & General Insurance Company Ltd (ACN 111 586 353), rather than as initially described in the Notification (A&G Insurance Services Pty Ltd). A&G Insurance Services Pty Ltd will arrange the sale of the insurance services on behalf of the underwriter.

I note that Auto & General Insurance Company Ltd and A&G Insurance Services Pty Ltd are related bodies corporate and there is no difference at all in the benefits that result from the proposed conduct (as set out in the Notification) as a result of this clarification. Further the clarification does not affect the detriments which Australian Power and Gas submits are limited - if any.

If you have any queries please do not hesitate to contact me at **(02) 8908 2724**.

Yours sincerely

Joanne Shatrov
General Counsel

Australian Power & Gas Pty Ltd
ABN 26 118 609 813

Level 9, 341 George Street
Sydney NSW 2000

Address all mail to:
GPO Box 2847
Melbourne VIC 3001

Ph: 02 8908 2700
Fax: 02 8908 2701

www.australianpowerandgas.com.au

FILE No:

DOC:

MARS/PRISM:

15 October 2012

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission

GPO Box 3131
Canberra ACT 2601

To General Manager (Adjudication Branch),

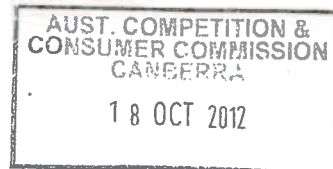
Please find attached a notification by Australian Power and Gas Pty Limited (ABN 26 118 609 813) of exclusive dealings (third line forcing) on Form G, and a cheque covering the notification lodgement fee (\$100) made out to the Australian Competition and Consumer Commission.

If you require additional information on this application please contact me on (02) 8908 2724.

Yours sincerely



Joanne Shatrov
General Counsel
Australian Power and Gas Pty Limited





Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

N96213

Australian Power and Gas Pty Ltd (ABN 26 118 609813) (**Australian Power and Gas**)

- (b) Short description of business carried on by that person:
(Refer to direction 3)

Australian Power and Gas is an energy retailer providing gas and electricity to residential customers in Victoria, New South Wales and Queensland.

- (c) Address in Australia for service of documents on that person:

Australian Power and Gas
Level 9, 341 George Street
Sydney NSW 2000

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

The proposed arrangement relates to gas and electricity accounts held by residential customers of Australian Power and Gas.

- (b) Description of the conduct or proposed conduct:

Australian Power and Gas proposes to offer residential customers a credit of either \$75 or \$100 on the supply of gas and/or electricity (**credit**) on the

condition that the customer obtains insurance services from A&G Insurance Services Pty Ltd (AGIS).

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)
- Residential customers that have a gas and/or electricity account with Australian Power and Gas.
 - AGIS
- (b) Number of those persons:
- (i) At present time:
Approximately 350,000 Australian Power and Gas customers.
- (ii) Estimated within the next year:
(Refer to direction 6)
Estimated take up of approximately 4,000 customers.
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
Not applicable.

4. Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)
- The conduct will provide public benefits in the form of benefits to:
- a significant number of consumers that would not otherwise be able to obtain the credit; and
 - the promotion of competition in the supply of retail gas and electricity and the supply of insurance services.
- (b) Facts and evidence relied upon in support of these claims:
The conduct will provide a benefit to the 350,000 Australian Power and Gas customers that, but for the proposed arrangement would not otherwise be able to obtain the credit from Australian Power and Gas. This is because the

credit arises from distribution cost savings the parties will generate by Australian Power and Gas effectively sharing its distribution network with AGIS.

The conduct will promote competition in that it will increase the attractiveness to consumers in being an Australian Power and Gas customer and an AGIS customer. To the extent the proposed conduct is commercially successful, it is likely to result in additional competitive offerings in that:

- other gas and electricity retailers would respond by entering into similar arrangements with insurance providers, including AGIS; and
- other insurance providers would respond by entering into similar arrangements with gas and electricity retailers or other utilities,

to ensure that their customers also have the benefit of such distribution cost savings.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):
(Refer to direction 8)

The relevant markets that may be impacted by the conduct are the:

- Victorian, New South Wales and Queensland markets for the retail supply of gas and electricity; and
- national markets for the supply of insurance services.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:
(Refer to direction 9)

Australian Power and Gas considers that there is limited, if any, public detriment arising from the conduct.

(b) Facts and evidence relevant to these detriments:

The conduct is unlikely to have a detrimental impact on competition in the relevant markets because:

- customers are not forced to obtain insurance services from AGIS in order to obtain gas and electricity from Australian Power and Gas;
- the commercial arrangements between Australian Power and Gas and AGIS are not exclusive in that AGIS is free to enter into similar arrangements with other retailers;
- there are a range of other significant gas and electricity retailers operating in the relevant energy markets, including major vertically integrated energy companies; and
- there are a range of other significant insurance companies operating in the relevant insurance market.

7. Further information

(a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Joanne Shatrov – General Counsel

Australian Power and Gas

Level 9, 341 George Street

Sydney NSW 2000



Dated 15/10/2012

Signed by/on behalf of the applicant

x 
(Signature)

Joanne Shatrov
(Full Name)

Australian Power and Gas Pty Limited
(Organisation)

General Counsel
(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.