

# 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:

N97325

Momentum Energy Pty Limited (ABN: 42 100 569 159) (**Momentum**).

(b) Short description of business carried on by that person:

The principal business of Momentum is the retail sale of electricity.

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

C/- Page Seager Lawyers

Level 2, 179 Murray Street, Hobart Tasmania 7000

## 2. Notified arrangement

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

The retail sale of electricity by Momentum at a discount rate to wholesale customers of Sigma Company Limited (ABN: 44 004 132 923) (**SCL**).

(b) Description of the conduct or proposed conduct:

The proposed conduct involves Momentum offering a particular discount rate to wholesale customers of SCL. This could be characterised as third line forcing within the meaning of sections 47(6) and (7) on the basis that the wholesale customers of SCL acquire goods or services from SCL.

## 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:

Current and future wholesale customers of SCL.

(b) Number of those persons:

(i) At present time:

The total number of wholesale customers of SCL is 3,500.

(ii) Estimated within the next year:

The estimated number of wholesale customers of SCL who are anticipated to take up the discount within the next year (and therefore will be affected by the proposed conduct) is 650.

(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:

The proposed conduct will generate a number of public benefits including:

1. by offering discounts on the retail price of electricity, increasing the ability of Momentum to attract customers, thereby enhancing retailer participation and competition in electricity retailing; and
2. enhancing price competition within electricity retailing, thereby promoting the long term interests of consumers.

(b) Facts and evidence relied upon in support of these claims:

The offer of electricity discounts to specified groups is a common marketing tool used by electricity retailers in Australia. This is evident by the large number of notifications for this type of conduct published on the exclusive dealing notifications register maintained by the ACCC.

Competition in the relevant market is enhanced by encouraging other retailers to offer electricity discounts to acquire customers. Consumers benefit from increased access to competitively priced electricity resulting from the greater competition in the market.

**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):

The relevant market for the proposed conduct is the sale of electricity to retail customers within Australia.

**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:

No public detriment will result from the proposed conduct.

- (b) Facts and evidence relevant to these detriments:

The proposed conduct will not lessen competition through the creation of barriers to entry in the relevant market, or by any other means because:

1. there will be no obligation on the wholesale customers of SCL to acquire electricity from Momentum and the wholesale customers will be free to change electricity retailer at any time subject to relevant electricity retail laws;
2. Momentum will not be restricted from offering to, and selling electricity at discount rates to any customer or potential customer (whether or not they are wholesale customers of SCL); and
3. there will be no restriction placed on SCL negotiating discount rates for customers of SCL from any other electricity retailer.

Further, arrangements similar to the proposed conduct are generally not considered to result in public detriment as evidenced by the number of these arrangements allowed to stand on the exclusive dealing notifications register maintained by the ACCC.

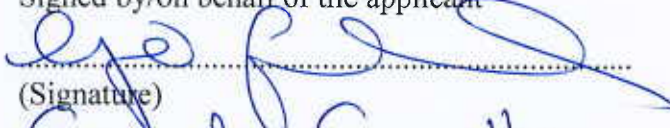
**7. Further information**

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

Gerry Connolly  
Page Seager Lawyers  
GPO Box 1106  
Hobart Tas 7001  
T: 03 6235 5120

Dated.....20-03-14.....

Signed by/on behalf of the applicant



(Signature)

Gerard Connolly

(Full Name)

Page Seager Lawyers

(Organisation)

Partner

(Position in Organisation)