IN THE AUSTRALIAN COMPETITION TRIBUNAL

AGL Energy Limited
RE: PROPOSED ACQUISITION OF MACQUARIE GENERATION (A CORPORATION ESTABLISHED UNDER THE ENERGY SERVICES CORPORATIONS ACT 1995 (NSW))

Statement of: Mark Troy Brownfield
Address: Level 22, 120 Spencer Street, Melbourne in the State of Victoria
Occupation: General Manager Marketing & Retail Sales
Date: 21 March 2013

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<td>2.49</td>
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<td>602</td>
</tr>
</tbody>
</table>

AGL Energy Limited, Applicant
Prepared by (name of person/lawyer)  Ashurst Australia
Tel 02 9258 6000 Fax 02 9258 6999
Email liza.carver@ashurst.com
Address for service Level 36, Grosvenor Place, 225 George Street, Sydney NSW 2000

228923835.01
1. QUALIFICATIONS AND EXPERIENCE

1.1 I am the General Manager of Marketing & Retail Sales at AGL Energy Limited (AGL), and have held that position since around April 2011.

1.2 I report to Stephen Mikkelsen, who is the Group General Manager of Retail Energy at AGL, who in turn reports to Michael Fraser, who is the Chief Executive Officer and Managing Director of AGL.

1.3 I have 6 operational reports who report directly to me, and a further (approximately) 275 people that I am responsible for through those direct reports.

1.4 My primary responsibilities in my current role include:

(a) developing and implementing the marketing and retail energy sales strategy of AGL, which involves developing marketing and positioning strategies for the
retailing of AGL electricity and gas products across both the residential and small business customer segments;

(b) developing AGL’s electricity and gas products, and recommending and implementing pricing changes. This responsibility requires analysis of pricing statistics for consideration by executive level decision-makers; and

(c) campaign strategy and delivery, which includes responsibility for the strategy and implementation of AGL’s brand positioning and communications, and sales channels.

1.5 I am also an active member of the following committees and leadership teams of AGL:

(a) the Market Strategy Committee, which meets monthly to review business performance of AGL and comprises the Managing Director, Chief Financial Officer, Group General Managers of the Retail and Merchant Energy Businesses, and various General Managers and the General Counsel of AGL;

(b) the Retail Strategy Steering Committee, which is involved in the development of retail strategy and comprises various senior personnel in AGL’s Retail Energy team;

(c) the Senior Leadership Team, which comprises AGL’s executive team and various general managers across AGL’s business; and

(d) the Retail Energy Leadership Team, which comprises various senior personnel in AGL’s Retail Energy team.

1.6 Prior to my current role at AGL, I held a number of other positions in the retail division of AGL’s business, including the following:

(a) from approximately October 1996 to November 1998, I was a Manager Key Accounts for large retail electricity customers with Solaris Power, which at the time was part owned by AGL;

(b) in approximately 1998, AGL acquired the balance of Solaris Power and in November 1998 I was appointed Victorian Sales Manager for large retail electricity and gas customers;

(c) from approximately September 2001 to August 2002, I was appointed Manager National Market Development, where my responsibilities included bringing new large retail electricity and gas customers to AGL on an national basis;

(d) from approximately August 2002 to July 2004, I was the Manager National Corporate Sales for AGL’s large retail market electricity and gas customers;

(e) in approximately July 2004, my focus shifted from large market customers to small market customers, and I held the role of Victorian Marketing and Residential Sales Manager within AGL’s marketing and residential sales business unit until around August 2005;

(f) from approximately August 2005 to January 2008, I was Manager National Consumer Sales and from approximately January 2008 to June 2009, I was General Manager Business Customers;

(g) from approximately June 2009 until April 2011, I held the role of national General Manager of Retail Sales & Distribution. This role focussed on the sale of AGL’s electricity and gas products through identified channels such as business customers and retail sales (excluding the top 100 retail customers); and
(h) in approximately April 2011, marketing responsibilities were also integrated into my role and I commenced my current position as national General Manager of Marketing & Retail Sales.

1.7 Prior to working at AGL, I have held other roles in the electricity industry including with the State Electricity Commission of Victoria from approximately February 1989 to December 1994, and TXU Australia (Eastern Energy) from approximately December 1994 to October 1996.

1.8 I am also a current director of the Energy Retailers Association of Australia, which is the peak body representing the Australia’s retail energy industry and includes member organisations of varying size which operate throughout the national electricity market (NEM).

1.9 I am authorised to give this statement on behalf of AGL. I make this statement in support of an application by AGL to the Australian Competition Tribunal for authorisation of its proposed acquisition of the assets of Macquarie Generation (Proposed Acquisition).

1.10 I make the statements in this Statement on the basis of my own knowledge and experience working for AGL and in my previous roles, unless stated otherwise.

1.11 Where I refer in this Statement to:

(a) "major retailers", I refer to AGL, Origin Energy and EnergyAustralia; and

(b) "other retailers", I refer to electricity retailers other than AGL, Origin Energy and EnergyAustralia.

2. BACKGROUND TO ELECTRICITY RETAILING

AGL’s Retail Energy business

Overview

2.1 AGL is divided into three core operational businesses including Retail Energy, Merchant Energy and Upstream Gas. These businesses operate on a NEM-wide, rather than State or regional basis. For example, AGL does not have a separate business unit or group that is responsible for the operation of retail activities in Victoria, as distinct from New South Wales, South Australia or Queensland.

2.2 AGL’s Retail Energy business sells and markets electricity, natural gas, and energy related products and services to over 3.8 million residential and small business customer accounts across New South Wales, Victoria, South Australia and Queensland. The following business units within Retail Energy manage AGL’s retail electricity operations in all regions in which AGL’s retail business operates:

(a) Marketing & Retail Sales, which is responsible for developing and implementing AGL’s strategic sales and marketing objectives across AGL’s residential and small to medium enterprise (SME) customers;

(b) Retail Operations, which is responsible for running customer services and all back office operations including billing, sales fulfilment, credit management and revenue assurance activities;

(c) Customer Experience & Digital, which is responsible for the delivery of AGL’s customer experience and digital strategy, including development of new digital products; and
(d) Retail Business Architecture, which works with IT to design and implement processes and systems to facilitate the delivery of AGL's retail strategies.

**Customers and regions of operation**

2.3 AGL's Retail Energy business typically supplies residential customers (eg, households) and SME customers (eg, small businesses). AGL's Retail Energy business does not typically supply commercial and industrial (C&I) customers (eg, larger scale businesses), which are managed by AGL's Merchant Energy business.

2.4 There is no specific volume cut-off used internally within AGL to distinguish the customers supplied by Retail Energy and the customers supplied by Merchant Energy. However, by way of guidance, in the electricity industry:

(a) residential and SME customers typically consume up to 160MWh of electricity per annum (or up to 100MWh of electricity per annum in New South Wales); and

(b) industrial and commercial customers (eg, larger scale businesses) typically consume in excess of 160MWh of electricity per annum (or in excess of 100MWh of electricity per annum in New South Wales).

2.5 AGL supplies electricity to customers New South Wales, Queensland, Victoria, and South Australia through the NEM, as described further below. In the Australian Capital Territory, AGL participates in electricity retailing through the ActewAGL partnership with the ACT government-owned enterprise, ACTEW Corporation, in which AGL holds a 50% interest. I have no personal involvement in the management or operation of ActewAGL, which is operated and managed separately from AGL.

2.6 AGL does not have a retail electricity presence in Tasmania (which is part of the NEM), or in the Northern Territory or Western Australia (both of which are not part of the NEM).

2.7 At my direction, persons within AGL that report to me have extracted from AGL's internal records AGL's electricity customer numbers in New South Wales and the NEM, for residential, SME and C&I customers, as at 30 June 2013 and 31 December 2013. These figures are reproduced in Table 1 below. The principal difference between the 30 June 2013 figures and 31 December 2013 figures is the additional customers acquired by AGL through its acquisition of Australian Power & Gas Company Limited (APG), completed in October 2013.

**Table 1: AGL's electricity customer numbers in NSW and the NEM (31 Dec 2013)**

<table>
<thead>
<tr>
<th>Customer Class</th>
<th>As at 30 June 2013</th>
<th>As at 31 Dec 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NSW</td>
<td>NEM</td>
</tr>
<tr>
<td>C&amp;I</td>
<td>4,918</td>
<td>18,447</td>
</tr>
<tr>
<td>Residential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SME</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>717,089</td>
<td>2,145,766</td>
</tr>
</tbody>
</table>

2.8 At my direction, persons within AGL that report to me have extracted from AGL's internal records the total volumes of electricity supplied by AGL to customers in New South Wales and the NEM for the financial year ended 30 June 2013 and the half year to 31 December 2013, by customer class, in gigawatt hours (GWh). These figures are reproduced in Table 2 below.
Table 2: Total volumes of electricity supplied by AGL to customers in NSW and the NEM (FY13 and HY2014)

<table>
<thead>
<tr>
<th>Customer Class</th>
<th>FY13 NSW</th>
<th>FY13 NEM</th>
<th>HY14 NSW</th>
<th>HY14 NEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>C&amp;I (GWh)</td>
<td>3,619</td>
<td>14,714</td>
<td>1,597</td>
<td>6,627</td>
</tr>
<tr>
<td>Residential (GWh)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SME (GWh)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total (GWh)</td>
<td>9,068</td>
<td>29,989</td>
<td>4,291</td>
<td>13,756</td>
</tr>
</tbody>
</table>

2.9 I note that the figures for the financial year ended 30 June 2013 do not include customer load associated with APG.

Retail sales channels

2.10 The channels through which AGL enters into retail electricity contracts with customers include the following:

(a) AGL Energy Online - an online platform which, among other services, allows customers to establish a gas and/or electricity account with AGL;

(b) AGL Energy Shops - walk-in shops offering advice, energy efficiency products and access to the AGL Energy Online platform;

(c) Inbound sales - sales made where a customer contacts AGL (for example in response to an AGL promotion, to make an inquiry or to arrange electricity and/or gas associated with moving, connecting or disconnecting a home or business);

(d) Outbound sales - proactive telemarketing to consumers;

(e) Brokers and Comparators - third parties that AGL grants the right to sell AGL energy plans on behalf of AGL in exchange for a commission; and

(f) Move-in services - businesses which organise the connection of various services (including energy, telephone, internet, television etc) for customers who are moving house.

2.11 AGL previously marketed and sold energy to retail customers through door to door sales. However AGL has now ceased door to door sales of energy plans to residential customers in Victoria, New South Wales, Queensland and South Australia (see further paragraph 3.32 below).

Additional customer services

2.12 AGL’s Retail Energy business offers a number of services to its customers aside from the supply of energy. For example:

(g) AGL’s Energy Online service - AGL’s Energy Online service allows customers to switch to AGL and manage or transfer their accounts at their convenience. Of the 500,000 registered users, more than half receive their bills electronically and self-serve on simpler transactions.
(h) **Energy efficiency** – AGL provides energy solutions to help customers manage their energy consumption and help reduce their energy bills:

(i) AGL's Smarter Living Centre and Smarter Living Store were launched in October 2011. They offer energy efficiency products, personalised services and practical solutions to reduce energy use.

(ii) My AGL IQ is an innovative online website tool which enables customers to see, act and save on energy usage. AGL was the first major Australian retailer to deliver energy monitoring tools to all customers in all States.

(i) **Flexible payment arrangements** – AGL offers its customers a range of different payment arrangements, such as monthly billing and bill smoothing, to reduce the difficulty they may experience in paying energy bills once every three months, rather than in more frequent smaller instalments.

(j) **Loyalty benefits** – AGL has also entered into an arrangement whereby AGL customers can earn Flybuys points on money they spend with AGL.

**Relationship with AGL Merchant Energy business and the NEM**

2.13 The NEM is a regulated, compulsory, energy only, gross pool wholesale market, in which supply and demand for electricity are matched and settled. The NEM services New South Wales, Victoria, Queensland, Tasmania, South Australia and the Australian Capital Territory. NEM regions are physically linked by an interconnected transmission network.

2.14 The Merchant Energy Team within AGL is responsible for AGL's trading in the NEM. AGL's Retail Energy business sources its energy from AGL's Merchant Energy business, with internal financial reporting undertaken within AGL on the basis of an "internal transfer price" between the two AGL business units (which in general terms is set having regard to prevailing wholesale market prices).

2.15 As set out in paragraph 2.3 above, the Merchant Energy team within AGL is also responsible for managing AGL's C&I customers.

**Development of AGL's Retail Energy business following privatisation**

2.16 AGL has developed its retail electricity business significantly following the privatisation of the retail electricity industry. In particular:

(a) in New South Wales, AGL did not gain a regulated retail electricity customer base through the acquisition of an incumbent government owned energy retailer (Origin Energy and EnergyAustralia each acquired assets through the privatisation of retailers and generation contracts in New South Wales in 2011). AGL has grown the significant majority of its retail customer presence in New South Wales organically by competing for customers and the remainder through the acquisition of independent retailer Australian Power and Gas in late 2013 (which also had retail operations in Victoria and Queensland);

(b) in Queensland, AGL acquired the regulated retail electricity customer base of Ergon Energy (excluding rural and regional Queensland), which was the smaller of the two incumbent government owned electricity retailers supplying the urbanised areas of Queensland;

(c) in Victoria, AGL acquired two out of the five incumbent government owned electricity retail businesses, being Solaris Power and Pulse Energy (previously
United Energy), and acquired an approximately similar proportion of the regulated retail electricity customer base;

(d) in South Australia, AGL acquired almost 100% of the regulated electricity retail customer base through its acquisition in 2000 of the retail business of the Electricity Trust of South Australia (ETSA); and

(e) in the ACT, ActewAGL supplies the vast majority of the ACT’s regulated customer base (however as set out above this partnership is managed and operated separately to AGL).

AGL’s key inputs into electricity retailing

2.17 AGL’s key "inputs" into electricity retailing are:

(a) wholesale electricity acquired in the NEM;

(b) services agreements with relevant electricity network and metering providers, for the transmission and distribution of electricity to, and measuring of electricity consumed by, retail customers;

(c) the infrastructure and services required to maintain sales channels, such as call centres and associated staff, and contracts with third parties to provide sales services;

(d) inputs associated with marketing, such as contracts with advertising, market research and media monitoring providers; and

(e) operational infrastructure, such as contracts with printing, mailhouse and debt recovery service providers.

2.18 AGL uses a number of external suppliers to provide the services described above. At my direction, a representative sample of suppliers used by AGL to provide these services has been compiled, a copy of which is annexed as Annexure MB1. Further information regarding the outsourcing arrangements of AGL and other electricity retailers is set out in paragraph 2.45 below.

Products and related services offered by electricity retailers

2.19 Electricity retailers buy wholesale electricity in the NEM, at the NEM spot price, and package it with network (transportation) services for sale to customers who are end users of electricity. The physical distribution of electricity to retail customers occurs under contract between AGL and the owner of the relevant transmission and distribution infrastructure.

2.20 Retail electricity is an homogenous physical product. Electricity retailers differentiate and compete with each other based on price (including discounts and bonuses), and ancillary services associated with the retail supply of electricity. Electricity retailers also compete with each other by using a range of sales channels to sign up new customers, and by developing new sales channels. Further information regarding competition by electricity retailers is set out in paragraph 3 below.

Retail electricity customers

2.21 As set out in paragraphs 2.4 above, the following types of customers acquire electricity from retailers in the NEM regions:
(a) residential customers (eg, households) and SME customers (eg, small businesses) who typically consume up to 160MWh of electricity per annum (or up to 100MWh of electricity per annum in New South Wales); and

(b) industrial and commercial customers (eg, larger scale businesses) who typically consume in excess of 160MWh of electricity per annum (or in excess of 100MWh of electricity per annum in New South Wales).

Retail energy competitors

Key competitors of AGL

2.22 As set out in Table 4 below, AGL estimates that it supplied electricity to approximately 25% of all customers in the NEM as at June 2013. The following businesses compete with AGL in relation to the retail supply of electricity (the regions in which they supply customers are identified in Table 3 below, and customer shares are based on figures set out in Table 4 below):

(a) Origin Energy, which AGL estimates supplied electricity to approximately 31% of all customers in the NEM as at June 2013;

(b) EnergyAustralia, which AGL estimates supplied electricity to approximately 21% of all customers in the NEM as at June 2013;

(c) Ergon Energy, which AGL estimates supplied electricity to approximately 8% of all customers in the NEM as at June 2013;

(d) Lumo Energy/Infratil, which AGL estimates supplied electricity to approximately 4% of all customers in the NEM as at June 2013;

(e) Red Energy, which AGL estimates supplied electricity to approximately 3% of all customers in the NEM as at June 2013;

(f) Aurora Energy, which AGL estimates supplied electricity to approximately 3% of all customers in the NEM as at June 2013;

(g) Simply Energy, which AGL estimates supplied electricity to approximately 2% of all customers in the NEM as at June 2013;

(h) Alinta Energy, which AGL estimates supplied electricity to approximately 1% of all customers in the NEM as at June 2013; and

(i) ERM. AGL estimates that ERM supplied electricity to less than 1% of all customers in the NEM as at June 2013. I note that ERM's customer base is predominantly large C&I customers, which typically consume a significantly higher volume of electricity than residential and SME customers. By way of illustration, as at 30 June 2013 18,477 out of 2,145,766 (or less than 1%) of AGL's customers were C&I customers, however for the year ended 30 June 2013 C&I customers acquired 14,714GWh out of 29,989GWh (or around 49%) of electricity supplied by AGL to its customers (see Table 1). AGL does not have access to percentage share figures for volume of electricity supplied by its competitors.

2.23 Other competitors of AGL in the retail supply of electricity in the NEM include retailers such as Momentum, Click Energy, QEnergy, Powershop, Dodo Power & Gas, BlueNRG, Diamond Energy, People Energy and Sanctuary Energy, which AGL estimates each supplied less
than 1% of all customers in the NEM as at June 2013. AGL estimates that ActewAGL has around 2% of all customers in the NEM as at June 2013.

2.24 In my experience, and as set out further in paragraphs 3.57 and following below, Origin Energy and EnergyAustralia are AGL’s closest competitors.

2.25 At my direction, a summary of the operations of AGL's retail electricity competitors, based on publicly available information has been prepared. A copy of this summary is annexed as Annexure MB2 to this Statement. I have reviewed this summary and confirm that it is consistent with my own understanding of the operations of AGL's retail electricity competitors.

2.26 Further potential new entrants in electricity retailing could include businesses which have a strong retail customer base and/or a mass market customer billing platform (whether or not they are currently energy retailers). For example, banks and telecommunications companies are potential new entrants. New entry in a particular state could also occur by an electricity retailer with operations in another state expanding their business into that particular state.

2.27 For example, I am aware that on 21 February 2014, the AER accepted an application from Macquarie Bank Ltd (Macquarie Bank) for an electricity retailer authorisation under the National Energy Retail Law, which states that Macquarie Bank intends to commence retail operations from 1 April 2014 (Macquarie Bank Application). A copy of a screenshot from the AER’s authorisation application register, together with a copy of the Macquarie Bank Application is annexed as Annexure MB3.

2.28 The Macquarie Bank Application states that Macquarie Bank intends to retail electricity to large customers under the authorisation in New South Wales, South Australia and the Australian Capital Territory. It also states that Macquarie Bank holds a retail authority in Queensland and is simultaneously pursuing a licence application with the Victorian Essential Services Commission, with the intention of providing similar services in that jurisdiction.

Further observations on retail energy competitors

2.29 I am aware that the Australian Energy Regulator (AER) releases an annual report on the state of the energy market. Copies of the AER reports, State of the Energy Market, for the years 2011 to 2013 (AER Reports), are annexed as Annexure MB4 of this Statement.

2.30 The AER Report 2013 identifies the "active retailers" of electricity to residential and small business customers as at October 2013, where "active retailers" are those supplying energy services to customers (whether or not the retailer is seeking new customers). The active retailers identified in Table 5.1 of the AER Report are reproduced in Table 3 below.

Table 3: Active retailers of electricity to residential and small business customers (October 2013)

<table>
<thead>
<tr>
<th>RETAILER</th>
<th>OWNERSHIP</th>
<th>QLD</th>
<th>NSW</th>
<th>VIC</th>
<th>SA</th>
<th>TAS</th>
<th>ACT</th>
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<tbody>
<tr>
<td>ActewAGL Retail</td>
<td>ACT Government and AGL Energy</td>
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<td>Host</td>
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<tr>
<td>AGL Energy</td>
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<td>Yes</td>
<td>Yes</td>
<td>Host</td>
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<tr>
<td>Alinta Energy</td>
<td>Alinta Energy</td>
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<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Aurora Energy</td>
<td>Tasmanian Government</td>
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</table>
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<table>
<thead>
<tr>
<th>RETAILER</th>
<th>OWNERSHIP</th>
<th>QLD</th>
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<th>VIC</th>
<th>SA</th>
<th>TAS</th>
<th>ACT</th>
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</thead>
<tbody>
<tr>
<td>Australian Power &amp; Gas</td>
<td>AGL Energy</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>BlueNRG</td>
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<td>Click Energy</td>
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<tr>
<td>Diamond Energy</td>
<td>Diamond Energy</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>Dodo Power &amp; Gas</td>
<td>M2 Telecommunications Group</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<td>EnergyAustralia</td>
<td>CLP Group</td>
<td>Yes</td>
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<td>Yes</td>
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<td>Ergon Energy</td>
<td>Queensland Government</td>
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<td>Lumo Energy</td>
<td>Infratil</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Momentum Energy</td>
<td>Hydro Tasmania (Tasmanian Government)</td>
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<td>Neighbourhood Energy</td>
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<td>Origin Energy</td>
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<td>People Energy</td>
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<td>Powerdirect</td>
<td>AGL Energy</td>
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<td>Powershop</td>
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<td>QEnergy</td>
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<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Red Energy</td>
<td>Snowy Hydro¹</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sanctuary Energy</td>
<td>Living Choice Australia / Sanctuary Life</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Simply Energy</td>
<td>International Power</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
1. Snowy Hydro is owned by the New South Wales Government (58 per cent), the Victorian Government (29 per cent) and the Australian Government (13 per cent).
2. The host retailers listed for New South Wales, Tasmania and the ACT are those responsible for offering 'regulated offer' contracts to customers in defined regions of each state. The host retailers listed for Victoria, South Australia and Queensland are those responsible for offering 'standing offer' contracts to customers that establish a new connection in defined regions of each state.

2.31 I note that the data used to produce this table does not reflect the fact that ERM Power is also an electricity retailer in New South Wales. As set out in Annexure MB2, ERM Power (through its business ERM Business Energy) has been a specialist electricity retailer to large commercial and industrial customers since 2007, however since July 2013 has also offered its services to small to medium enterprise business customers.

2.32 Figure 1 below reproduces estimates contained in the AER Report 2013 (Figure 5.1) of the share of residential and small business customers by state and retailer for active retailers. AGL does not have access to the underlying AER data on which Figure 1 is based.
Figure 1: Electricity retail share (small customers) by jurisdiction, August 2013

2.33 I am also aware that UBS compiles annual reports called “Australian Utilities Structure” (UBS Reports) which contain, among other things, tables which record reported electricity customer numbers and shares by state and by retailer. Copies of the UBS Reports for the period 2004 to 2013 inclusive are annexed as Annexure MB5. Although the UBS data has its limitations as described below, I consider that the UBS Reports are the most reliable and comprehensive publicly available industry wide report on estimated electricity customer numbers and shares. AGL routinely considers the UBS Reports as a source of data on customer numbers and shares for its own internal purposes including in relation to the development of AGL’s business strategies.

2.34 At my direction, the shares of electricity customers supplied by electricity retailers for various years and geographic areas were extracted from the UBS Reports. Table 4 below sets out estimates of shares of customer numbers by NEM region and by retailer as at the end of June 2013, based on figures contained in the UBS Report 2013. Annexure MB6 sets out further electricity customer shares for the past five years for each of New South Wales and the NEM.

Table 4: Shares of electricity customers in NEM – June 2013

<table>
<thead>
<tr>
<th>Retailer</th>
<th>VIC</th>
<th>NSW</th>
<th>SA</th>
<th>QLD</th>
<th>TAS</th>
<th>ACT</th>
<th>Total NEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGL (inc APG)</td>
<td>27%</td>
<td>24%</td>
<td>52%</td>
<td>19%</td>
<td></td>
<td></td>
<td>25%</td>
</tr>
<tr>
<td>Origin Energy</td>
<td>23%</td>
<td>41%</td>
<td>20%</td>
<td>38%</td>
<td></td>
<td></td>
<td>31%</td>
</tr>
<tr>
<td>Energy Australia</td>
<td>25%</td>
<td>32%</td>
<td>12%</td>
<td>5%</td>
<td></td>
<td></td>
<td>21%</td>
</tr>
<tr>
<td>Ergon Energy</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>34%</td>
<td></td>
<td></td>
<td>8%</td>
</tr>
<tr>
<td>Alinta</td>
<td>3%</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
<td></td>
<td></td>
<td>1%</td>
</tr>
<tr>
<td>Simply Energy</td>
<td>5%</td>
<td>0%</td>
<td>8%</td>
<td>0%</td>
<td></td>
<td></td>
<td>2%</td>
</tr>
<tr>
<td>Lumo (Infratil)</td>
<td>8%</td>
<td>1%</td>
<td>6%</td>
<td>2%</td>
<td></td>
<td></td>
<td>4%</td>
</tr>
<tr>
<td>Aurora Energy</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td></td>
<td>100%</td>
<td>3%</td>
</tr>
<tr>
<td>Retailer</td>
<td>VIC</td>
<td>NSW</td>
<td>SA</td>
<td>QLD</td>
<td>TAS</td>
<td>ACT</td>
<td>Total NEM</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----------</td>
</tr>
<tr>
<td>ActewAGL (50% AGL)</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
<td>0%</td>
<td>100%</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Red Energy (Snowy)</td>
<td>7%</td>
<td>1%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>Dodo Energy (new for 2013)</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Momentum (new for 2013)</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total of above</strong></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: UBS Report 2013 (based on information from companies, ESAA, AEMO, and UBS estimates of retailers’ total customer numbers). Companies; ESAA, AEMO, UBS estimates

Notes: For public listed companies, data is most up-to-date as at end of June 2013 or September 2013. UBS figures reported to nearest 10,000 (0 is <10,000). Alinta figures include Neighbourhood Energy. AGL figures include figures for APG (which was acquired after June 2013) and also Powerdirect. Percentage figures may not add to 100% due to rounding.

2.35 I note the following in relation to the data contained in the UBS Reports:

(a) the UBS customer number figures are reported to the nearest 10,000 (with zero being allocated where there is less than 10,000 customers);

(b) the data does not include a number of electricity retailers listed by the AER Report 2013 as “active” in one or more of these regions, including Click Energy, BlueNRG, Diamond Energy, Powershop, QEnergy and Sanctuary Energy; and

(c) the data does not include ERM Power - as set out in above, the UBS figures are based on customer numbers rather than volume of electricity supplied. As noted in paragraph 2.22 above, ERM has historically focused on C&I customers, which typically consume significantly higher volumes of electricity than residential and SME customers.

2.36 Having regard to the information referred to above and my own knowledge and experience, I make the following observations in relation to competitors in electricity retailing:

(a) the three major national electricity retailers in the NEM - AGL, Origin Energy and EnergyAustralia - each operate in several States, are vertically integrated (ie, own electricity generation assets as well as a retail business) and operate a gas production and retail business in addition to its electricity business;

(b) other electricity retailers supply around 23% of the NEM-wide electricity customers electricity retailers (based on 2013 UBS Report figures). In the States where AGL operates, the combined share of customer numbers supplied by other retailers is, according to the 2013 UBS Report figures, approximately 24% in Victoria, 3% in New South Wales (excluding ActewAGL), 15% in South Australia and 2% in Queensland (excluding 34% for State-owned Ergon Energy). In my opinion, the UBS Reports have a tendency to understate the share of customers of other retailers, including because, as set out in paragraph 2.35 above:

(i) figures are to the nearest 10,000 (with zero being allocated where a retailer has less than 10,000 customers); and
(ii) they do not include a number of other retailers active in one or more regions, including Click Energy, BlueNRG, Diamond Energy, Powershop, QEnergy and Sanctuary Energy.

This view is consistent with the figures referred to in the AER Report 2013 (at page 120), which notes that other retailers accounted for 27% of electricity customers in Victoria and 17% of electricity customers in South Australia.

(c) Other retailers are diverse:

(i) several other retailers are active retailers operating in three or more states, including Click Energy, Dodo Power & Gas, Lumo Energy (Infratil), Momentum, Red Energy and Simply Energy. Alinta (including Neighbourhood Energy) operates in two states;

(ii) a number of other retailers are vertically integrated into generation (including Red Energy/Snowy, Momentum Energy/Hydro Tasmania, Simply Energy/GDF Seuz, Lumo/Infratil Energy, Alinta, and ERM), while others operate stand-alone businesses;

(iii) there is a further group of other retailers using distinctive business models, such as:

(A) BlueNRG – an SME focussed retailer active in Victoria;

(B) Diamond Energy – an energy retailer focussed on solar energy active in Victoria and South Australia;

(C) Powershop – an "online energy store" retail electricity business active in Victoria, which is backed by New Zealand’s largest renewable energy generator, Meridian Energy;

(D) QEnergy – an SME focussed retailer active in Victoria, Queensland, New South Wales, and South Australia; and

(E) Sanctuary Energy – a renewable energy focussed retailer active in Queensland, New South Wales, and South Australia.

(iv) State-owned retailers continue to retain a presence in some jurisdictions, for example:

(A) the Queensland government owns Ergon Energy, which supplies electricity at regulated prices to customers in rural and regional Queensland, but is not permitted to compete for new customers;

(B) the Tasmanian government owns Aurora Energy, which supplies most small electricity customers (legislation currently prevents new entrants from supplying small customers that use less than 50MWh per year);

(C) ActewAGL, a partnership between ACT government owned ACTEW Corporation and AGL, supplies the vast majority of customers in the ACT; and
(D) Red Energy (owned by Snowy Hydro which is owned by the New South Wales, Victorian and Australian Governments) and Momentum Energy (owned by the Tasmanian government) operate in a number of jurisdictions.

**Barriers to entry and expansion into electricity retailing**

**Industry structure and regulation**

2.37 The electricity retail industry is regulated under (among other things):

(a) The National Electricity Law (Law) and the National Electricity Rules (Rules); and

(b) the National Energy Retail Law (Retail Law).

2.38 The Retail Law applies in South Australia, New South Wales, the Australian Capital Territory and Tasmania (for electricity only), with Victoria and Queensland the only NEM regions yet to implement the Retail Law and continuing to apply existing regulation. Electricity retailers are required to hold a retailer authorisation under the Retail Law in order to sell electricity to a person.

2.39 The Law and Rules establish the NEM:

(a) the NEM is a compulsory energy only wholesale market in which generators sell electricity to predominantly energy retailers, which bundle electricity with network services for sale to residential, commercial and industrial energy users. The NEM services Queensland, New South Wales, the Australian Capital Territory, Victoria, South Australia and Tasmania. NEM regions which are physically linked by an interconnected transmission network; and

(b) in my experience, the existence of the NEM facilitates intense competition in the retail supply of electricity, because it facilitates essentially unlimited access to a homogenous product (wholesale supply of electricity) at a market determined price, and access to regulated transmission and distribution infrastructure.

2.40 Electricity retailers are required to be registered as a market participant under the Rules in order to participate in the NEM, and need to enter into regulated use-of-system agreements with distributors. The Rules also contain provisions in relation to prudential requirements which (among other things) require market participants to either satisfy acceptable credit criteria or have "credit support" (ie, an unconditional guarantee or bank letter of credit in the form specified by AEMO).

2.41 The Retail Law establishes national regulation of retail energy markets (ie, electricity and gas) and transfers significant functions from the state and territory governments to the Australian Energy Retailer. It also represents a move towards NEM-wide systems for settlement, churn, metering and billing, and the ongoing development of NEM-wide regulatory regimes including in relation to consumer protection rules.

2.42 For electricity retail markets, the Retail Law contains various consumer protection provisions that apply to small energy customers, being residential energy users and small businesses annually consuming less than 100 megawatt hours (MWh) of electricity (which is the threshold used in New South Wales). Some jurisdictions have a threshold different from that specified in the Retail Law (for example, in South Australia the threshold in 160MWh and in Tasmania the threshold is 150 MWh per year). The Australian Consumer Law is a national framework which contains further consumer protection provisions that apply to suppliers of goods and services to consumers, including electricity retailers.
2.43 New South Wales, Victoria, South Australia, Queensland and the Australian Capital Territory all have full retail contestability in electricity, meaning that customers can enter a contract with their retailer of choice.

2.44 Additionally, all jurisdictions except Victoria (which removed retail price regulation in January 2009) and South Australia (which removed price regulation in February 2013) all currently apply some form of retail price regulation for electricity supplied under a regulated retail contract. For example, in New South Wales:

(a) the Independent Pricing and Regulatory Tribunal (IPART) determines the maximum prices that can be charged by regulated retailers (being Energy Australia and Origin Energy) to residential and small business consumers on regulated contracts; and

(b) customers can choose to go onto a market contract (ie, non-regulated contract), to which regulated prices do not apply.

Other barriers to entry and expansion into electricity retailing

2.45 Many electricity retailers, both major retailers and other retailers, effectively outsource:

(a) selected channel to market activities, including inbound and outbound telemarketing, door to door sales and in some cases, customer service, as well as having relationships with third party aggregators (eg, companies which provide "move-in" services as described in paragraph 2.10 above), energy comparator websites, which direct potential customers to electricity retailers, and energy brokers, which proactively offer customers a range of energy products from a 'panel' of retailers. For example, AGL has a number of such arrangements in place, including with (among others) CPM Australia, Direct Connect Australia, Make it Cheaper, Stellar Asia Pacific, BMS Telecorp, Fast Connect, Connectnow, GoSwitch, On the Move and iSelect;

(b) selected marketing services, including advertising, market research and media monitoring. For example, AGL has relationships with a number of such organisations, including (among others) Motivator Media Group, Australia Market Research and iSentia Media; and

(c) billing, printing, customer mailouts, debt recovery, and various "back office" and IT related services. For example, AGL has relationships with (among others) FujiXerox, Computershare, Salmat and Probe Group.

2.46 Based on my experience in relation to AGL's supplier relationships, and my familiarity with APG's outsourcing arrangements as described further in paragraph 2.49 below, I am aware that there are several large and smaller third party service providers who specialise in the services set out above. The existence of such parties assist in making the task of customer acquisition, customer retention, billing, revenue collections and customer service scalable. In particular, electricity retailers can commence and readily expand their operations as customer numbers increase by securing third party service providers to provide the services above on a typically per unit cost basis, without the retailer incurring large and sunk costs that might otherwise be associated with such operations.

2.47 In addition to these issues, I am aware, from my general experience in the industry, of the need for electricity retailers to manage the risks associated with their exposure to the NEM spot price, and their compliance with applicable prudential requirements. My responsibilities as General Manager of Marketing & Resale Sales do not extend to entry into hedge contracts or other risk management arrangements on behalf of AGL. I have not attempted to further address this issue in my Statement.
I set out below my observations on the entry and expansion of APG into electricity retailing in Victoria, New South Wales and Queensland, which in my view demonstrates that barriers to entry into electricity retailing are low.

Case study – entry and expansion of Australian Power & Gas

I oversaw the involvement of AGL's Marketing & Retail Sales team in the due diligence process conducted by AGL in relation to its acquisition of APG in 2013 and the subsequent integration of the APG post acquisition, pursuant to which I became familiar with aspects of APG's retail business. As a result of my involvement in that process and my examination of various other publicly available material (including the documents referred to below), I am aware that:

(a) APG was established in around 2006, and was listed and commenced the retail supply of electricity in 2007;

(b) at or about the time APG was acquired by AGL in late 2013:

(i) APG had approximately 353,000 customers, comprising around 217,000 electricity customers and 136,000 gas customers (refer also to paragraph 3.6 below for further observations of APG's expansion over time). Of APG's 136,000 electricity customers, approximately 121,000 were in Victoria, 74,000 were in New South Wales and 22,000 were in Queensland. A copy of AGL's Annual General Meeting presentation slides dated 23 October 2013, which refer to these customer numbers, is annexed as Annexure MB7; and

(ii) APG had approximately 110 staff.

(c) APG operated its business on an outsourcing model, entering into arrangements with third party service providers to provide a number of services on a typically per unit cost basis, without incurring large and sunk costs that might otherwise be associated with such operations. For example, I am aware that APG had agreements with a number of third party service providers for the provision of:

(i) marketing, comparison and customer acquisition services, including inbound and outbound telesales, door to door sales, lead fulfilment, online marketing and advertising with referrals to APG's website for customer sign up, online product comparison services, and "moving home" assistance services. Sales channel service providers used by APG included Appco Energy Direct (part of the Cobra Group), Salmat, One Big Switch, AIMS Marketing Solutions, iSelect Media, Connect Now, Make it Cheaper, BMS Telecorp, Bundl, InStep Marketing, and Switchwise; and

(ii) services related to billing, printing, customer mailouts, customer service and various other back office and IT related services, including arrangements with Computershare/Serviceworks.

3. COMPETITIVE DYNAMICS OF ELECTRICITY RETAILING

Introduction

In summary, in my experience:

(a) AGL faces strong competition in electricity retailing in New South Wales and the other regions of the NEM in which it operates. This observation is consistent with:

(i) significant examples of new entry and growth and expansion of other retailers since the introduction of the NEM and full contestability in States other than Tasmania, which demonstrate that barriers to entry are low;
(ii) strong competition in price, ancillary service offerings and routes to market by electricity retailers;

(iii) significant levels of customer churn (i.e., switching) between electricity retailers, and corresponding low levels of customer loyalty; and

(iv) the conclusions of relevant regulatory authorities in their reviews of competition in various regions within the NEM;

(b) AGL’s closest competitors in electricity retailing in New South Wales and across the NEM more generally are the other two major retailers, Origin Energy and EnergyAustralia. While other retailers are a material factor in the competitive environment in which AGL operates, AGL principally considers other retailers as a class, and no other retailer is considered by AGL to be a more significant competitor than Origin and EnergyAustralia; and

(c) the lower degree of historical penetration by other retailers of electricity retailing in New South Wales (and Queensland), compared with other regions of the NEM such as Victoria and South Australia, is principally a consequence of market distortions created by regulatory intervention.

I consider these issues in turn below.

**Electricity retailing in NSW and the NEM is developing and workably competitive**

**Significant new entry and growth of other retailers**

3.2 I have observed that competition in electricity retailing has undergone constant evolution since the introduction of the NEM, and of full retail contestability in States other than Tasmania.

3.3 This period has seen retail businesses expand beyond a single State into multiple regions, and the development of NEM-wide rather than State or regional, operational and regulatory arrangements for the retail supply of electricity.

3.4 I have also observed that there have been a significant number of new electricity retailers which have entered and expanded during this period, which in my view demonstrates that barriers to entry and expansion are low. My own observation regarding the level of new entry is consistent with the AER Report 2013, which states (at page 120) that "the number of active retailers has increased steadily over the past 10 years following the introduction of full retail contestability". By way of recent example:

(a) the AER Report 2013 states that in 2012-2013 (at page 120):

   (i) People Energy commenced electricity retailing in Victoria; and

   (ii) existing retailers including Diamond Energy and Simply Energy (Queensland), Click Energy (New South Wales) and QEnergy (New South Wales and Victoria) widened the geographic range of activity; and

(b) the AER Report 2012 notes that in 2011-12 (at page 119):

   (i) new entry by retailers included Powershop and Blue NRG in Victoria; and

   (ii) existing retailers Alinta Energy, Sanctuary Energy and Momentum Energy widened the geographic range of their activity, moving into Victoria, South Australia and New South Wales respectively, while QEnergy was granted a retail licence in South Australia; and
the AER Report 2011 states that:

(i) "More recently, Simply Energy, Lumo Energy and Australian Power & Gas have emerged as significant private retailers in some jurisdictions. Alinta Energy and Diamond Energy began active retailing in 2010-11, and Dodo Power & Gas widened the geographic range of its activity" (at page 103); and

(ii) In Victoria, "[n]ew entrant penetration increased from around 7% of small customers at June 2005 to almost 30% at June 2010" (at page 106).

3.5 To further demonstrate this point, I have examined the UBS Reports for the period 2004 to 2013 inclusive, copies of which are annexed in Annexure MB5, which contain (among other things), tables which set out electricity customer numbers by state and retailer for each year.

3.6 I make the following observations about the information and data contained in the UBS Reports concerning the new entry and growth of other retailers in the NEM.

(a) Red Energy – Red Energy first appears in the 2006 UBS Report:

(i) in 2006, Red Energy was operating the Victorian region and had 70,000 customers. Red Energy's Victorian customer base grew consistently after 2006, reaching 200,000 customers in 2013;

(ii) Red Energy is first recorded as having customers in South Australia in the 2008 UBS Report. Red Energy had 10,000 customers in 2008, and Red Energy's customer numbers have been stable since that time;

(iii) Red Energy is first recorded as having customers in New South Wales in the 2010 UBS Report. Red Energy's customer numbers have grown from 10,000 in 2010 to 40,000 in 2012; and

(iv) Red Energy's total customer numbers have increased from 70,000 in 2006 to 240,000 in 2013.

(b) Infratil (Lumo) – Infratil (now known as Lumo) first appears in the 2008 UBS Report, and is recorded as having customers in Victoria, South Australia and Queensland:

(i) In Victoria, Infratil's customer numbers have grown from 170,000 in 2008 to 210,000 in 2010 (and have remained relatively stable since);

(ii) in South Australia, Infratil's customer numbers have grown from 30,000 in 2008 to 50,000 by 2012. Infratil is recorded as having had 40,000 customers in Queensland in 2008, and the same number in 2013;

(iii) Infratil is first recorded as having customers in New South Wales in the 2010 UBS Report. Infratil's customer numbers have grown from 20,000 in 2010 to 40,000 in 2013; and

(iv) Infratil's total customer numbers have increased from 240,000 in 2008 to 340,000 in 2013;

(c) Australian Power & Gas (APG) – APG (which was acquired by AGL in late 2013) first appears in the 2008 UBS Report, and is recorded as having customers in Victoria and New South Wales.
in Victoria, APG's customer numbers grew from 50,000 in 2008 to 120,000 in 2012. In New South Wales, APG's customer numbers were less than 10,000 customers in 2009, but grew to 70,000 by 2012. The UBS Report 2012 indicates that APG's customer numbers in Queensland were less than 10,000, and as set out in paragraph 2.49 above I am aware that they were over 20,000 by late 2013;

(ii) APG's total customer numbers increased from 60,000 in 2008 to 220,000 in 2012, an increase of 160,000 customers (the 2013 UBS Report does not separately report APG customer numbers, as they are aggregated with AGL's customer numbers);

(d) Alinta – Alinta first appears in the 2010 UBS Report, and is recorded as having customers in Victoria and South Australia:

(i) in Victoria, Alinta's customer numbers grew from 30,000 in 2010 to 70,000 in 2012, and have been relatively steady since;

(ii) in South Australia, Alinta's customer numbers have been steady at 10,000; and;

(iii) Alinta's total customer numbers increased from 40,000 in 2008 to 80,000 in 2013.

(e) Jackgreen – Jackgreen first appears in the 2006 UBS Report, in relation to New South Wales customers, and in 2008 in relation to Victoria, South Australia and Queensland. In New South Wales, Jackgreen grew from 30,000 customers in 2006 to 50,000 in 2009. I am aware that Jackgreen was suspended from the NEM in December 2009 and exited the supply of retail electricity, triggering an automatic transfer of its customers to relevant Retailers of Last Resort (RoLR) under the Rules, which included AGL in Victoria. Further information regarding examples of retailers triggering the RoLR provisions of the Rules is set out in paragraph 3.11 below;

(f) Simply Energy – Simply Energy first appears in the 2008 UBS Report, in relation to Victorian and South Australian customers. In Victoria, Simply Energy's customer numbers reduced from 140,000 in 2008 to 100,000 in 2011, but have since grown to 140,000 by 2013. In South Australia, Simply Energy's customer numbers have remained relatively steady since 2008, at between 70,000 and 80,000; and

(g) Momentum Energy and Dodo Energy – Both Momentum Energy and Dodo Energy first appear in the 2013 UBS Report, with customers in Victoria, New South Wales and Queensland. Dodo Energy has 30,000 in Victoria, 20,000 in New South Wales and 10,000 in Queensland. Momentum Energy has less than 10,000 customers in each region.

3.7 The UBS Reports also show that:

(a) in New South Wales, where Origin and TruEnergy (now EnergyAustralia) acquired the government-owned standard retailers, those retailers' combined customer numbers have declined by around 10% – from 2,700,000 in 2011 (83% of New South Wales customers) to 2,440,000 (73% of New South Wales customers). Retailers other than Origin, EnergyAustralia and AGL represent 130,000 customers (less than 4% of New South Wales customers);

(b) in Victoria, the combined customer numbers of retailers other than Origin, EnergyAustralia and AGL represent 650,000 customers (24% of Victorian customers); and
in South Australia where AGL historically had a 100% market share, AGL's customer numbers have declined significantly - from 760,000 in 2003 (100% of South Australian customers) to 440,000 in 2013 (52% of South Australian customers). Retailers other than Origin, EnergyAustralia and AGL represent 130,000 customers (more than 15% of South Australian customers).

3.8 As noted above, the figures contained in the UBS Reports are approximations only and in my opinion have a tendency to underestimate the total share of customers of other retailers. This view is consistent with the AER Report 2013, which notes (at page 120) that the share of electricity customers held by other retailers in 2013 was 27% in Victoria and 17% in South Australia.

3.9 Subject to these limitations regarding the data in the UBS Reports, my observations based in the UBS Reports which I set out above are consistent with my experience and understanding of new entry and growth of other retailers in the NEM over that period.

3.10 I make the following further observations about new entry and growth of other retailers in the NEM, including having regard to UBS Reports and the AER's 2013 market share figures set out in Figure 1 above:

(a) other retailers have achieved the greatest market penetration in the Victorian and South Australian regions of the NEM. Neither of these regions have price regulation, and both have significant degrees of vertical integration:

(i) Victoria removed retail price regulation in January 2009, and has significant vertical integration. According to the AER Report 2013 (at page 125), the three major retailers AGL, Origin and Energy Australia control around 52% of generation capacity, with Victoria's other major generators, GDF Suez (International Power) and Snowy Hydro jointly supplying around 13% of electricity customers in Victoria through their ownership of Simply Energy and Red Energy respectively; and

(ii) South Australia removed price regulation in February 2013. I am aware that in addition to AGL (which according to AER Report 2013, page 125, has the largest generation presence in South Australia at around 38% of generation capacity), Origin Energy, Energy Australia and GDF Suez (International Power) and Alinta also have interests in both electricity retail and generation in South Australia;

(b) by comparison, other retailers have achieved little market penetration in New South Wales and Queensland. As set out further in paragraph 3.54 and following below, I consider that the primary reason for this historical lack of market penetration by other retailers in New South Wales and Queensland has been the existence and level of regulated prices in that region;

(c) the remaining regions of the NEM are dominated by entities related to the applicable State governments:

(i) ActewAGL, the partnership between AGL and ACT government owned ACTEW Corporation, accounts for the vast majority of small customers in the ACT; and

(ii) In Tasmania, where AGL does not have a presence, State owned Aurora Energy supplies most for almost all of the customers in that region, with legislation currently preventing new entrants from supplying small customers that use less than 50MWh per year. I understand that the Tasmanian government has announced plans to introduce full retail contestability from 1 July 2014 (see AER Report 2013 at p126).
3.11 In addition to AGL's acquisition of APG, there have been a number of other acquisitions of electricity retailers. At my direction, a table summarising acquisitions of energy retailers since 2008 has been prepared. A copy of this table is annexed as Annexure MB8.

3.12 The Retail Law contains provisions for a national RoLR scheme. The RoLR scheme is designed to ensure that, in the event of a retailer failing (a RoLR event), customers continue to receive electricity and/or gas supply. I am only aware of two instances of RoLR events occurring, including in relation to Jackgreen in December 2009 and Energy One in June 2007. Further information regarding these RoLR events has been prepared at my direction and is annexed as Annexure MB9.

Evidence of competition - price competition, ancillary service offerings, routes to market

3.13 In my experience, AGL faces intense competition from electricity retailers which is reflected in retailers' offering on price and ancillary services, and their active pursuit of a range of sales channels to find new routes to market. I consider these issues below.

Price competition

3.14 A typical residential electricity bill is made up of wholesale energy costs, network costs (ie, transmission and distribution), carbon costs (ie, carbon pricing costs), green costs (ie, costs concerning the renewable energy scheme, jurisdictional energy efficiency schemes and the Renewable Energy Target) and retail costs. Figure 2 below is an extract from Table 5.3 of the AER Report 2013, which estimates on an indicative basis the composition of a retail energy bill illustrating the breakdown of these costs (at page 129).

Figure 2: AER's indicative composition of residential electricity bills, 2013

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>NETWORK COSTS</th>
<th>WHOLESALE ENERGY COSTS</th>
<th>RETAIL COSTS</th>
<th>CARBON COSTS</th>
<th>GREEN COSTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Queensland</td>
<td>52</td>
<td>21</td>
<td>15</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
<td>New South Wales</td>
<td>51</td>
<td>23</td>
<td>10</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Victoria</td>
<td>36</td>
<td>na</td>
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<td>8</td>
<td>4</td>
</tr>
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<td>8</td>
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<td>57</td>
<td>27</td>
<td>7</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>ACT</td>
<td>43</td>
<td>26</td>
<td>11</td>
<td>12</td>
<td>8</td>
</tr>
</tbody>
</table>

Note: The AEMC did not provide a breakdown of wholesale energy and retail costs for Victoria. These components jointly accounted for 52 per cent of retail bills.

Sources: AEMC, Electricity price trends, final report, 2013 (electricity)

3.15 In practice, price competition among retailers typically occurs on the basis of the discounts offered off a retail customer's bill. Types of discounts typically offered by AGL and competing electricity retailers include a specified discount off a published rate, with additional discounts available if a customer pays on time and/or enters into direct debit payment arrangements with the retailer.

Ancillary services

3.16 A dimension of competition between electricity retailers (and in particular AGL, Origin Energy and EnergyAustralia) is the supply of ancillary services which are in addition to the physical supply of electricity, such as energy efficiency services, services to allow customers to monitor and reduce their energy usage, loyalty programs and other services.

3.17 For example, AGL offers a range of online services to customers, including the market-leading "My AGL IQ" website, which empowers customers to understand, monitor and...
reduce their energy usage. AGL has also aligned with a loyalty program, so that AGL customers can earn Fly-buys points on their energy expenditure.

3.18 Similarly, other retailers also compete based on ancillary services, including initiatives focussed on customer empowerment:

(a) I am aware than Origin Energy offers, in association with its Smart DailySaver Plus plan, an online free electricity usage service "Energy Manager" which offers similar features to AGL's "My AGL IQ". Origin Energy also provides a free handheld energy monitoring device referred to as an "Origin Smart Energy Monitor", which allows customers to see their home’s energy usage and costs (including automatic pricing updates).

(b) EnergyAustralia offers an online energy usage monitoring tool called "eWise", which offers similar functionality to AGL's "My AGL IQ" website.

(c) some other retailers offer some degree of ancillary services (eg, Lumo customers can earn points Virgin Australia’s Velocity Frequent Flyer program, and a number of other retailers provide basic energy information on their websites). However, based on my observation, no other retailer provides an equivalent range of ancillary services to that offered by AGL, Origin Energy and EnergyAustralia. Other retailers seek to compete principally in relation to price.

Sales channels

3.19 In my view, the level of competition between NEM retailers is also demonstrated by the range of channels and related innovations used to undertake sales and marketing functions.

3.20 This is particularly evident in the variety of channels used by AGL, Origin Energy and EnergyAustralia. For example, as outlined above, AGL uses a wide range of online, telemarketing, aggregator, comparator and "move-in" services to promote its products to customers. AGL also uses its own internal customer service centre to promote its products and services. Its competitors use a similar variety of channels, including in some instances door to door sales to residential customers.

3.21 As set out in paragraph 2.45 above, many retailers, including both major retailers and other retailers, also effectively "outsource" channels to market activities, including inbound and outbound telemarketing, door to door sales and in some cases, customer service.

High customer churn among electricity retailers and low customer loyalty

3.22 The extent of retail competition is also indicated by the level of "churn" among retail customers – that is, the extent to which customers switch to a different retailer.

VaasaETT churn data

3.23 I am aware that VaasaETT publishes an annual report on world energy retail market rankings (VaasaETT Report), which compares (among other things) the degree of customer churn (ie switching) in particular geographic areas. A copy of the VaasaETT Report for 2012 is annexed as Annexure MB10. According to the VaasaETT Report 2012:

(a) the Victorian region has the highest level of customer switching or churn in any deregulated electricity market globally (Victoria is the only "super hot" market identified, with customer switching exceeding 20% for the current year, and consistently around 20% for at least three years - in super-hot markets, "high levels of switching and competition are an inevitable reality ... [these are] truly competitive markets where customers come first");
(b) the Queensland region is a "hot market" (annual customer switching approximately 15% up to 20% - in hot markets, "switching activity is so intensive that competitive positioning becomes one of the utility’s most strategic issues");

(c) the New South Wales region is a "warm active" market (annual customer switching between 8.5% and 14% - in warm active markets, "utilities risk losing significant numbers of customers if they do not actively compete, or if they make loyalty-related errors"); and

(d) the South Australian region is a "hot market" and is ranked third highest in the world in level of switching (behind Victoria and New Zealand).

3.24 I note that the data used in the VaasaEET Report 2012 is churn data from 2011 (VaasaEET has also considered data from 2009 and 2010 in preparing this report). At the time this Statement was prepared, the VaasaETT Report 2013 is yet to be released. However, VaasaEET published a press release in December 2013 which indicated that each of New South Wales, Victoria and South Australia are "hot active markets" and Queensland is a "warm active market", with these jurisdictions together accounting for four of the top eight highest switching levels in the 36 regions covered by the rankings. A copy of this press release is annexed as Annexure MB11. Further information regarding movements in customer switching levels based on AEMO and AGL churn data, including for the period since the publication of the VaasaEET Report 2012, is set out below.

**AEMO and AGL churn data**

3.25 The Australian Energy Market Operator (AEMO) publishes "churn" data measuring the number of customer switches from one retailer to another in Australia.

3.26 At my direction, persons who report to me have extracted various AEMO data on switching by electricity customers in the NEM. Figure 3 below shows completed residential and small business electricity customer churn for all retailers in the NEM, for FY09 to FY14, based on this data (the FY14 figures cover the period 1 July 2013 to 31 January 2014 only). The relevant data, and graphs and data for each of Victoria, New South Wales, Queensland and South Australia are set out in Annexure MB12).
Figure 3: National Electricity Market churn (FY09 to FY14)

National Electricity Market Churn year on year

3.27 Figure 4 below has been extracted from the AER Report 2013 (at page 128), and shows AER's estimates of small electricity customer (ie residential and small business) churn as a percentage of the number of small electricity customers in the region, for each of Queensland, New South Wales, Victoria and South Australia, from FY08 to FY13.

Figure 4: AER estimates of churn as a percentage of small customers (FY08 to FY13)

Sources: Customer switches: AEMO, MSATS transfer data to July 2013 and gas market reports, transfer history to July 2013; customer numbers: estimated from retail performance reports by the AER, IPART (New South Wales), the ESC (Victoria) and the QCA.
3.28 These figures show that there are substantial levels of switching by retail electricity customers across the NEM, which in my view demonstrates that customers face low barriers to switching retail suppliers and that retail electricity supply is characterised by low levels of customer loyalty. In particular:

(a) levels of switching are highest in Victoria (over 30% of small customers switched in 2012-2013);

(b) switching activity in South Australia and New South Wales have increased in recent years, with rates in 2012-13 being the highest recorded, with switching levels in New South Wales (over 25%) exceeding those in South Australia for the first time;

(c) levels of switching in Queensland have been declining since 2009-10 and in 2012-13 less than 15% of small electricity customers switched retailers. For the reasons discussed in paragraphs 3.38 and following below, I consider that decisions of the Queensland Government and Queensland Competition Authority (QCA) in relation to regulated tariffs have had a material distortionary effect and the conditions for retail competition in Queensland are not as favourable as they were prior to these interventions. This is consistent with the AER Report 2013, which states that (at p127-128) that:

Queensland’s switching rates were once comparable with those in New South Wales and South Australia, but fell in recent years. This fall coincided with a reduction in marketing effort by energy retailers in Queensland, reflecting concerns about the process for setting regulated prices. Queensland’s electricity switching rate in 2012-13 was its lowest since the introduction of [full retail contestability].

(d) Figure 3 above shows that levels of switching have declined across the NEM in the period from July 2013 to January 2014 (which is beyond the period covered by Figure 4). As set out below, I consider that:

(i) this decline has principally been a result of:

(A) AGL (and other retailers) withdrawing from the door to door sales channel, which has historically been a key source of customer switching; and

(B) slower growth in network charges and other charges compared to previous years, which contained electricity price rises for 2013-14, and, correspondingly, gave consumers less reason to consider switching electricity retailers; and

(ii) electricity retailing remains highly competitive.

3.29 I further analyse the identity of the retailers to whom AGL customers typically switch in paragraphs 3.62 and following below.

Recent withdrawal of AGL and other retailers from door to door sales

3.30 Until relatively recently, door to door sales was an important sales channel used by many electricity retailers for signing new customers, including major retailers and other retailers.
I am aware that since 2012, the Australian Competition and Consumer Commission has taken enforcement action against a number of electricity retailers and associated marketing companies, for contraventions (or in the case of ongoing cases alleged contraventions) of the unsolicited consumer agreement provisions of the Australian Consumer Law, in relation to door to door sales conducted on their behalf, including:

(a) AGL;
(b) Origin Energy (ongoing);
(c) EnergyAustralia (ongoing);
(d) Neighbourhood Energy (Alinta Energy);
(e) APG; and
(f) Lumo Energy.

AGL withdrew from door to door sales in South Australia and Queensland in around October 2012, and also withdrew from door to door sales in New South Wales and Victoria in around February 2013. Origin Energy and EnergyAustralia have also ceased door to door sales. Copies of media releases by AGL, Origin Energy and EnergyAustralia referring to their respective withdrawals from door to door sales are annexed as Annexure MB13.

I understand that some other retailers such as Red Energy, Simply Energy and Lumo continue to use door to door sales to varying degrees.

Based on my experience, I consider that withdrawal of the major retailers from door to door sales has been a major contributing factor to the recent decline in customer churn throughout the NEM as set out in Figure 3 above and Annexure MB12.

Slower growth in network charges and other charges

As noted by the AER Report 2013 (at page 131):

(a) retail electricity prices rose significantly over the past five years, with network costs (which are beyond the control of electricity retailers) being the key driver of this price rise, and the carbon price (which is also beyond the control of electricity retailers) also leading to price increases of 5-13% in 2012-13; and

(b) slower growth in network charges contained price rises for 2013-14 to below 4% in New South Wales, South Australia, Tasmania and the Australian Capital Territory.

In my view, the comparatively lower annual electricity prices rises have given customers less reason to consider switching retailers, and this has coincided with some moderation in the discounts typically being offered by electricity retailers to customers.

Electricity retailing remains highly competitive

Notwithstanding the recent reduction in electricity customer churn levels across New South Wales and the NEM as set out above, I consider that electricity retailing remains highly competitive, with electricity retailers continuing to compete vigorously across a wide range of electricity products and ancillary products, with continued innovation, marketing and promotional activity.
Recent regulatory reviews indicate effective competition exists in NSW electricity retailing

3.38 Recent reviews conducted by the AEMC and the Independent Pricing and Regulatory Tribunal (IPART) indicate that effective competition exists in electricity retailing in New South Wales, and that barriers to entry in the retail electricity market are low for new entrants. I consider these reviews in turn below.

AEMC review

3.39 I am aware that in October 2013, the AEMC released its final report relating to its review of gas and electricity retail competition in New South Wales (AEMC Report NSW). A copy of the AEMC Report NSW is annexed as Annexure MB14.

3.40 I have reviewed the AEMC Report NSW and observe that the AEMC made the following findings in relation to electricity retailing (at page v):

(a) competition in the retail electricity market is delivering discounts and other benefits to small electricity consumers through effective choice of their retailer and electricity products. Many urban consumers can choose from up to 50 different offers from 12 different retailers. In regional areas consumers can choose from over 34 offers from 9 retailers. Consumers are increasingly taking advantage of these choices. Around 60 per cent of small New South Wales electricity consumers have already chosen a market offer, and 21 per cent of consumers switched their retailer in 2012 in pursuit of a better deal;

(b) there are no significant barriers to retailers entering, expanding or exiting the retail electricity market (as discussed further below);

(c) while market concentration is high, other retailers are winning market share and competition is intense between the three major retailers. The incumbent retailers, Origin Energy and EnergyAustralia, both of which purchased the New South Wales government retail businesses in 2011, have lost significant market share as customers moved to other retailers;

(d) the majority of consumers surveyed are generally satisfied with the quality of service they receive;

(e) profit margins are consistent with a competitive market. There is evidence of price-based competition with new and established retailers offering discounts; and

(f) profit margins are consistent with outcomes that might be expected in an effectively competitive market, and profit margins are supporting price-based competition across New South Wales.

AEMC found no significant barriers to entry

3.41 As noted above, the AEMC found that there are no significant barriers to retailers entering, expanding or exiting the retail electricity market. The AEMC stated that it remained of the view that barriers to entry in the electricity market are low for new entrants (evidenced, for example, by the recent entry of Click Energy in March 2013, see page 33 of the AEMC Report NSW). Further, the AEMC found that (at pages 20-21, and footnote 33):

(a) historical impediments to new entry (including the Electricity Tariff and Equalisation Fund and obsolete tariffs) have been, or are currently being, phased out;
Statement of Mark Brownfield 21 March 2014

(b) new entrant retailers are able to source electricity and manage wholesale spot price risk through financial hedging products;

(c) a number of new entrants are backed by generation companies and have access to physical hedges (the AEMC cited as examples Momentum Energy / Hydro Tasmania, Simply Energy / GDF Suez Australian Energy, and Red Energy / Snowy Hydro);

(d) while new entrants may have higher costs per customer, new entrants can outsource many services, such as billing, and so capture economies of scale;

(e) while there may be some economies of scope (ie, a retailer spreading its fixed costs over more than one product, in particular electricity and gas), these are not likely to prevent electricity only retailers from competing;

(f) there are no substantial exit costs in electricity retailing;

(g) market operator and network businesses place credit support requirements on retailers to support electricity purchases and the cost of transport across networks to small consumers, and the costs of credit support can be high and cash-intensive - however, these costs are not a barrier to entry or expansion because they are scalable (that is, these costs are relatively low for smaller firms and increase as they grow); and

(h) state-based regulatory requirements can be costly (particularly where they differ across jurisdictions), but do not appear to be preventing retailers from entering or expanding in the market.

AEMC recommendation to remove price regulation

3.42 The AEMC noted that a number of retailers suggested in submissions to AEMC that the greatest barrier to entering the New South Wales electricity market was the continuation of retail price regulation. The AEMC acknowledged that the apparent use of Victoria as a "springboard" into energy retailing in New South Wales suggests there are some barriers to entry in the New South Wales market compared to the Victorian market (where retail price regulation ended in 2009). However, the AEMC noted (at page 21) that a number of new retailers have entered the New South Wales market in the last few years, including the entry of Click Energy as recently as March 2013.

3.43 The AEMC recommended that a package of measures be implemented to further enhance consumer choice, including removing price regulation, improving information for consumers, maintaining consumer protections, and ongoing market monitoring. The AEMC stated (at page i) that it is "confident that competition in NSW is now sufficiently robust to promote choice for consumers and we expect removing retail price regulation for all consumers will lead to more innovation, increased product choice, and competitive pricing".

3.44 In relation to removing price regulation, the AEMC stated (at pages 38 and 62) that:

There are signs of independent rivalry in the NSW retail electricity market, primarily around price-based competition. While market concentration is higher and product differentiation is more limited than in Victoria, small retailers are winning market share ... We are of the view that the removal of price regulation will foster the conditions necessary for the emergence of new market participants and will encourage greater product differentiation.

The Commission considers historical retail profit margins have supported competitive activity. Retailers have responded to customer switching behaviour by
offering tariffs below the regulated price. This evidence of price-based competition gives us confidence that retail price regulation is not required to constrain prices to efficient levels. The Commission considers there is sufficient rivalry in the electricity market to keep competitive pressures on prices.

[...]

The Commission's view is that where sufficient competition exists, as we find it does in NSW, the risks of regulated retail prices outweigh the benefits and regulated retail prices should be removed. The Commission therefore considers regulated retail prices should be removed.

3.45 Based on my knowledge and experience in electricity retailing in Australia, I agree that competition in electricity retailing in New South Wales is effective, and I support the AEMC's recommendation that price regulation be removed.

IPART review

3.46 In June 2013, IPART published its final report in relation to its review of regulated retail prices and charged for electricity from 1 July 2013 to 30 June 2016 (IPART Report). I have reviewed the IPART Report, a copy which is annexed as Annexure MB15.

3.47 The IPART Report states that "competition in the New South Wales retail electricity market has continued to improve, and is more effective than it was when [IPART] made the 2010 determination" (at page 28). In particular, the IPART Report identifies that (at pages 28-35):

(a) the number of licenced electricity retailers in New South Wales has increased (from 26 in 2009 to 38 in 2013);

(b) the number of new retailers entering the market since the 2010 determination suggests that barriers to entry continue to be low (consistent with IPART's findings in earlier reviews);

(c) the "Standard Retailers" in New South Wales (ie, Origin Energy and EnergyAustralia) have continued to lose market share within their supply areas since IPART's 2010 determination;

(d) small retail customers have continued to move off regulated prices, and around 60% are now on market-based prices (up from 35% in 2009/10) - customers are also switching between retailers at a higher rate than ever before (although still not as high a rate as in Victoria); and

(e) most customers who participate in the competitive market are experiencing positive outcomes.

3.48 I have considered the IPART Report. Based on my own knowledge and experience, I agree with the IPART Report that the conditions for effective competition in electricity retailing in New South Wales have continued to improve and in particular observe that (for example, as compared to Queensland) the level of regulated tariffs has in general been sufficient to support competition and this is likely to continue to be the case.

3.49 Notwithstanding this, as set out further in paragraphs 3.54 and following below, I consider that market distortions in New South Wales due to pricing regulation have historically been, and continue to be the most significant factor determining the scope and effectiveness of retail competition in those regions, compared with other regions without price regulation.
Development of competition determined by pricing regulation, not other barriers

Competition vigorous and effective in Victoria and SA - no material regulatory barriers

3.50 In my view, the analyses above regarding the share of customers supplied by retailers, new entry and expansion, and levels of customer churn show that competition is most aggressive in the deregulated regions of Victoria and South Australia, where there is no price control by regulators. This is consistent with there being no material regulatory barriers to entry and expansion for consumer retailers in these regions.

3.51 Further, by way of example, I note a number of competitors including Lumo, Simply Energy and Alinta Energy appear to have experienced significant penetration and growth in Victoria following their entry into that region.

3.52 I am also aware that the most recent review of Victorian energy retail conditions completed by the AEMC in December 2007 found that competition is effective for electricity retailing in Victoria. A copy of the final report in relation to the AEMC’s Review of Competition in the Retail Electricity and Natural Gas Markets in Victoria (AEMC Report Victoria) is annexed as Annexure MB16. In particular, the AEMC Report Victoria states that (at page 7):

(a) the majority of energy customers are actively participating in the competitive market by exercising choice among available retailers and available price and service offerings;

(b) there is strong rivalry between energy retailers, facilitated by the current market structures and entry conditions; and

(b) competition is relatively more effective for electricity than for gas.

3.53 While that review was conducted in 2007, my own experience is that competition in energy retailing in Victoria has only continued to develop since that time.

Regulatory barriers to entry in NSW and Queensland – Retailer Operating Costs

3.54 In my experience, by comparison with the position in Victoria and South Australia, regulatory pricing decisions by regulators in New South Wales and Queensland have historically created significant market distortions.

3.55 In my opinion, it is market distortions which occur as a result of these regulatory pricing decisions in New South Wales and Queensland which most significantly determine the scope and effectiveness of retail competition in those regions, as compared with Victoria and South Australia. In particular, where the price set by IPART or QCA for a regulated contract does not leave sufficient "headroom" for retailers to price below the regulated price in respect of "market" contracts (ie, contestable contracts), which in my view has historically been the case in New South Wales and Queensland, the effectiveness of retail competition in those regions is adversely affected.

3.56 Notwithstanding this, I note that:

(a) Customer churn figures in New South Wales increased between 2008-09 to 2012-13 (though as set out above has recently declined). I consider that a key reason for the previous increase in churn in New South Wales over the last 2-3 years has been AGL aggressively competing to win new customers, principally from Origin Energy and EnergyAustralia. I would expect to see an even higher degree of competition in New South Wales, including from other retailers, if prices were deregulated in New South Wales.
(b) the Queensland government has committed to removing electricity price deregulation in south east Queensland by 1 July 2015, so long as appropriate consumer protection and engagement policies are in place (see AER Report 2013, at page 130).

**AGL's closest competitors in electricity retailing are Origin and EnergyAustralia**

**Summary**

3.57 Based on my knowledge and experience, including my responsibility for developing and implementing AGL's marketing and retail sales strategy, I consider that:

(a) the other major retailers, Origin Energy and EnergyAustralia, are AGL's closest competitors in electricity retailing in New South Wales and across the NEM more generally (i.e., Origin Energy and EnergyAustralia in general impose a greater competitive constraint on AGL than other retailers); and

(b) while other retailers are a material factor in the competitive environment in which AGL operates, and do provide an important competitive constraint on AGL:

(i) AGL principally considers other retailers as a class; and

(ii) no other retailer is considered by AGL to be a more significant competitor than Origin and EnergyAustralia.

3.58 This assessment is supported by churn data, which shows that AGL loses significantly more customers to Origin Energy and EnergyAustralia than other retailers.

3.59 I consider these issues in turn below.

**Experience in developing and implementing AGL's marketing and retail sales strategies**

3.60 As set out in paragraph 1 above, in my role as General Manager of Marketing & Retail Sales I am responsible for the development and implementation of AGL's marketing and retail sales strategies, and I also participate in a number of AGL committees and leadership teams where these issues are discussed. I make the following observations based on my experience in this capacity:

(a) AGL's focus is predominantly on the promotional activities and product offerings of Origin and EnergyAustralia, with other retailers receiving significantly less consideration (generally other retailers are considered as a class, or on an individual retailer basis in a sporadic manner);

(b) in product formulation, AGL monitors and compares itself principally to Origin and EnergyAustralia; and

(c) AGL primarily benchmarks its pricing against Origin and EnergyAustralia (though AGL does have regard to pricing of other retailers, both as a group and in some cases other retailers individually).

3.61 I consider that Origin Energy and Energy Australia are AGL's closest competitors, for the following reasons:

(a) like AGL, they have a history of developing a broad portfolio of energy assets, including a range of types of electricity generation;

(b) like AGL, they have rapidly grown their retail businesses, and innovated in relation to the prices and products (including ancillary services) offered to retail customers; and
(c) when retail customers switch from AGL to another retailer, they most frequently switch to Origin Energy and Energy Australia (see below).

**Analysis of churn from AGL to major retailers and other retailers**

3.62 Figure 3 and Figure 4 above related to the degree of customer churn between all retailers in the NEM.

3.63 At my instruction, more specific figures showing churn among AGL customers nationally (ie, which retailers AGL customers switch to when they leave AGL), for the period FY10 to FY14 were extracted by persons who report to me from AGL’s internal records, for the following areas in which AGL supplies retail electricity:

(a) NEM-wide (ie, New South Wales, Victoria, South Australia and Queensland);

(b) New South Wales;

(c) Victoria;

(d) South Australia; and

(e) Queensland.

3.64 This information is represented graphically in Figure 5 to Figure 9 below. A copy of the data underlying these figures is annexed as **Annexure MB17**. I note that APG is shown separately in these figures as it was independently owned in the period FY10 to FY13, prior to its acquisition by AGL in October 2013. I also note that FY14 figures only cover the period 1 July 2013 to 31 January 2014 inclusive.

**Figure 5: Customer churn away from AGL in NSW, VIC, QLD and SA combined**

**Figure 6: Customer churn away from AGL in New South Wales**
Figure 8: Customer churn away from AGL in South Australia

Figure 9: Customer churn away from AGL in Queensland
3.65 I make the following observations based on the customer churn data set out in Figure 5 to Figure 9 above and Annexure MB17:

3.66 Taken together with my own experience in developing and implementing AGL’s retail sales and marketing strategies, in my view these churn figures support the proposition that Origin and EnergyAustralia are the primary source of competitive constraint on AGL, and correspondingly, that these substantive retailers impose a greater competitive constraint on AGL than other retailers.

Affirmed at Sydney in the State of New South Wales on 21 March 2013 before me:

Name: David Fleming
Legal Practitioner of NSW
I, David Fleming, solicitor, certify the following matters concerning the making of this statement by
the person who made it:

1. I saw the face of the person.

2. I have not known the person for at least 12 months, but I have confirmed the person’s
   identity using an identification document and the document I relied on was a drivers
   licence.

Date: 21 March 2014