



Australian
Competition &
Consumer
Commission

GPO Box 3131 Canberra ACT 2601
23 Marcus Clarke Street Canberra ACT
tel: (02) 6243 1111 fax: (02) 6243 1199
www.accc.gov.au

NEWS RELEASE

ACCC OPPOSES AGL'S PROPOSED ACQUISITION OF MACQUARIE GENERATION

The Australian Competition and Consumer Commission has today announced that it will oppose the acquisition of the assets of Macquarie Generation by AGL Energy Limited (AGL). The ACCC considers that the proposed acquisition is likely to result in a substantial lessening of competition in the market for the retail supply of electricity in New South Wales.

The key assets of Macquarie Generation are the Bayswater and Liddell power stations (together, these power stations account for 27 per cent of NSW capacity). AGL is already a substantial electricity retailer in NSW.

“The proposed acquisition would result in the largest source of generation capacity in NSW being owned by one of the three largest retailers in NSW. Indeed, with this acquisition, the three largest retailers in NSW would own a combined share of 70 to 80 per cent of electricity generation capacity or output. This is likely to raise barriers to entry and expansion for other electricity retailers in NSW and therefore reduce competition compared to the situation if the proposed acquisition does not proceed,” ACCC Chairman Rod Sims said.

The ACCC formed the view that the proposed acquisition would be likely to result in a significant reduction both in hedge market liquidity and the supply of competitively priced and appropriately customised hedge contracts to second tier retailers competing in NSW.

“In particular, it does not appear likely that the remaining non-aligned generators in NSW, Delta Coast and Snowy Hydro, would be able to provide a sufficient quantity and type of hedge cover to be able to adequately service the requirements of second tier retailers that sought to either enter the NSW retail market or grow their existing retail position,” Mr Sims said.

“In this way, the acquisition would be likely to prevent sufficient vigorous competition with AGL, Origin and EnergyAustralia, who already have 85 per cent of the overall retail market in NSW and 95 per cent of the mass market, and would have a combined share of 70 to 80 per cent of electricity generation capacity or output in NSW if the acquisition proceeded.”

“In addition, had the acquisition proceeded, AGL would have become the largest generator in each of NSW, Victoria and South Australia. The ACCC remained concerned about the likely competitive impact of the proposed acquisition in one or more of the wholesale electricity markets in these regions,” Mr Sims said.

For commercial reasons, AGL required the ACCC to make its decision by 4 March 2014. In the time available since the transaction became public, the ACCC has engaged with a large number of market participants and industry experts and received significant cooperation from the NSW Government and AGL. A significant proportion of the market participants consulted, especially second tier retailers, expressed concerns about the effect of the proposed acquisition.

The ACCC concluded that the draft undertaking offered by AGL on 17 February 2014 was not capable of addressing the ACCC's competition concerns in relation to the likely effect of the proposed acquisition on competition in the market for the retail supply of electricity in NSW. Most of the market feedback received by the ACCC in relation to the undertaking raised concerns about its ability to address the likely competitive harm, as well as circumvention risks.

The ACCC's decision will be available at www.accc.gov.au/MergersRegister

4 March 2014