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Dear Electricity Monitoring Inquiry Team

AGL response to ACCC Monitoring of electricity supply in the National Electricity Market discussion paper

AGL welcomes the opportunity to make a submission in response to the *ACCC Monitoring of Electricity Supply in the National Electricity Market Discussion Paper* (***Discussion Paper***) that will inform the Inquiry directed by the Treasurer that will monitor the prices, profits and margins in the supply of electricity in the National Electricity Market (**NEM**) until 31 August 2025 (the **Inquiry**).

AGL understands and accepts the level of concern expressed in the ACCC Retail Electricity Pricing Inquiry Report published in July 2018 (***ACCC REPI***) in respect of energy prices and the lack of transparency and comparability of energy offers faced by consumers. AGL endorses the need for reform of how energy products are marketed and sold, to move away from the current practices associated with discounting off a standing tariff. AGL and other industry participants have been working with regulators to find a better way to make offers transparent and comparable. AGL will actively support initiatives designed to move the industry quickly toward enhanced transparency and comparability of energy offers, and AGL firmly believes that this will be the most effective measure in driving competition and customer benefit.

The period of this Inquiry will correspond with a very significant period for the Australian energy market. As has been clearly articulated by the AER in their recent '*Wholesale Electricity Market Performance Report'* (**AER WEMPR**), Australia's energy markets are undergoing a significant period of transition. More than 80% of electricity generated in Australia is sourced from the combustion of fossil fuels, the majority of which is provided by coal-fired generation that is reaching the end of its design life. The transition to a decarbonised and modernised generation sector will span several decades and will require large-scale investment to replace this infrastructure. Governments and the energy industry, with assistance of regulators, need to manage this transition with as little disruption to the Australian economy as possible, and significant investment from participants such as AGL will be key to achieving this.

The market settings and design must provide the mechanisms, certainty and stability necessary to encourage investment. AGL believes the Inquiry, in combination with the other regulatory reviews that will be progressed over the next few years (eg AER WEMPR, AEMC and ESB consultations) presents an opportunity to consider what market design is most suited to delivering the investment in the generation mix necessary to facilitate this transition in the most affordable and reliable manner possible.

AGL encourages the ACCC to conduct this Inquiry in a manner that accords with the following considerations:

- The ACCC should reference where possible the analysis and reporting conducted by other regulators, particularly that performed by the AER WEMPR, the AEMC's annual report into the competitiveness of the retail market and the ESB's Health of the NEM. Not only will this avoid unnecessary duplication by the regulators and the industry but will ensure that the ACCC's recommendations are consistent with, and complementary to, the findings of the AER and other regulators.

- Due weight must be given to the characteristics of the existing market design, particularly in the context of long-term outcomes in an energy only market. AGL recognises that the sharp increase in energy bills that have resulted from higher market prices has placed significant pressure on Australian customers and businesses. However, as noted by the AER, these outcomes are largely consistent with the current energy only market design, as aging thermal generation has withdrawn from the market. The AER notes in the AER WEMPR that price signals are for new flexible, firming generation are improving, however, "we are not currently seeing the price spikes that support these types of generators to recover their costs."[1] In order to properly consider the current issues impacting market outcomes, and to make meaningful recommendations for the future a longer term view must be taken.

- Further to this, the analytical approach should focus on understanding the root causes of observable outcomes in the market. AGL notes in this context that while the ACCC Retail Electricity Pricing Inquiry Final Report (**REPI**) did acknowledge that there are a number of factors driving high prices in the NEM, the ACCC made a number of statements to the effect that there is a lack of competition in the retail and generation sector and concluded that these structural issues were significant causes of the current level of high prices in the NEM. The ACCC did not provide any evidence or analysis to support a number of these conclusions and AGL believes it did not fully consider the outcomes that would be expected in an energy only market in current circumstances. AGL notes in this context the AER WEMPR specifically stated that it had not identified behaviour of vertically integrated generators as a significant factor contributing to recent high prices.

- AGL is very supportive of the ACCC's stated intent to fully consider the impact of the vast range of regulatory and policy changes that have been, or are to be, introduced.

- Similarly, the interrelationship between the electricity market and the gas market needs to be a continuing focus as it was in the REPI, together with the impact other generation fuel constraints have on both the physical operation of generators in the NEM and their ability to offer financial contracts.

- The recommendations made by the ACCC should focus on the root causes of identified issues, and that policy and regulatory changes should be given time to work and be tested before further recommendations as to change are made. AGL believes the ACCC's recommendations in the REPI as to the development of a clear, transparent reference price are an excellent example of recommendations focussed on the root cause of an identified issue – namely that the practice of discounting off variable standing offers creates confusion and inhibits the flow of benefits from competition that would otherwise flow to consumers. This reform should continue to be the focus of industry, governments and regulators, and then permitted time to have effect before further interventions in the retail market are made.

In respect to information requests, AGL notes that:

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[1] p.v, AER, *Wholesale electricity market performance report*, December 2018.

- The ability of recipients of the requests to respond quickly and efficiently will be greatly assisted if the ACCC's requests are consistent across the period of the Inquiry where ever possible. AGL would hope to develop efficient means of tracking and providing relevant information on an ongoing basis but notes that this is only possible if requests are consistent. It will also enable the ACCC to undertake consistent analysis on the observable trends in the market over time.
- AGL encourages the ACCC to request information with reference to information kept in the ordinary course of business. This will facilitate the ease of production of such information but will also assist with the comparison across industry. Detailed, granular information will require assumptions for every business which will vary and will undermine the veracity of any analysis.

Possible enactment of the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018 (Bill)

AGL notes that the ACCC have advised it will consider the need for public consultation or guidelines once any legislative changes are made.

AGL is firmly of the view that in the event this legislation is enacted the ACCC should:

- Commence a comprehensive consultation process into any guidelines; and
- Institute an 'amnesty' period that will permit the proper consultation on and formulation of guidelines

AGL notes the highly unusual process that was adopted in drafting this Bill, resulting in an extremely limited opportunity for of consultation in the period preceding the introduction of the Bill to Parliament. As drafted, there are real concerns regarding compliance with the bill.

AGL would welcome the opportunity to further discuss matters raised in the Discussion Paper with the ACCC.

Yours sincerely,

[redacted]

[redacted]
General Manager - Competition Regulation & Strategy

Overarching comments on conduct of Inquiry

AGL would encourage the ACCC to consider the following matters in its conduct of the Inquiry.

Avoid duplication and reference other regulatory studies where possible

As the ACCC is aware, there are a vast number of regulatory inquiries currently being conducted into the functioning of the energy market and physical system. These include (but are not limited to) reviews by AEMC, AER, AEMO and the ESB. Reference should also be given to jurisdictional reviews for example by IPART, noting that this may require some replication of analysis for other states.

While most of these inquiries will have some areas that overlap, the following reports are so directly on point that AGL suggests the ACCC would be able to reference these reports as full compliance with some of the matters outlined in the Terms of Reference:

- AER WEMPR: The AER will be compiling these reports on a routine basis through to 2020, many of the matters reported on in those reports will correspond with matters to be considered by the ACCC under its Terms of Reference. Specifically, (ii) wholesale market prices including the contributing factors to these such as input costs, bidding behaviour and any other relevant factors; (iii) the profits being made by electricity generators and retailers and the factors that have contributed to these; (iv) contract market liquidity, including assessing whether vertically integrated electricity suppliers are restricting competition and new entry. AGL encourages the ACCC to rely as much as possible on the AER's analysis and conclusions rather than replicating it.
- AEMC Review of Retail Competition: the AEMC also annually reviews the state and possible future development of retail competition in the gas and electricity markets. This looks at retail prices, innovation, consumer engagement, the impact of current reforms in the retail energy market. Again, AGL would encourage the ACCC to rely on the AEMC analysis and conclusions when considering the electricity prices faced by customers in the NEM including the level and spread of price offers, analysing how wholesale prices are influencing retail prices and whether any wholesale cost savings are being passed through to retail customers.
- The ESB's annual Health of the NEM review: where it is proposed that it will assess progress against the Strategic Energy Plan each year.

Analysis should give appropriate weight to current market design

AGL supports the monitoring of the market to ensure greater transparency and understanding. Any analytical framework for monitoring and analysis must be viewed through the prism of the current market design for the wholesale market.

The ACCC did acknowledge in the body of the REPI that high prices at times of tight supply and demand is a feature of the current market design of the NEM as an energy only market. However, AGL observes that this fundamental premise of market design was not given appropriate weight in the ACCC's summation of the issues, with the focus being placed on alleged market concentration and assertions of the impact of this on market structure and behaviour. In order for the ACCC's Inquiry to successfully consider the root causes of high prices in the NEM, the possible outcomes over the next few years in light of significant further interconnection, increases in variable renewable generation, and regulatory and policy change, and then make recommendations that will serve the long term interests of consumers, it must properly consider both the impact of current market design and whether this market design is still fit for purpose. The wholesale market is designed and operates as an energy only market – this means that generators are required to recover both fixed and variable costs from the sale of energy. As Danny Price of Frontier Economics explained in a recent article in the Australian Financial Review, "the spot energy market should therefore produce a price that recovers both operating and fixed generation costs. It achieves this because generators with relatively expensive operating costs set prices higher than the operating costs of other, cheaper generators. The resulting revenue for generators with low operating costs help pay for the fixed costs of these generators."[2]

The AER and other experts are already considering the issue of market design in analysing the current level of market prices, and the question of whether these prices are likely to subside under current market settings. Public comments include:

- The AER WEMPR, where it noted that:
  - The market is significantly transforming in the context of significant community and government concern about electricity affordability and security, and the reliability of supply. In this context, assessing "whether there is effective competition and the market is operating efficiently can be challenging amidst market change, so a longer-term view of market performance is needed."[3]
  - the market was designed to signal the need for new investment at times of tight supply and demand through high spot prices.
  - supply and demand conditions have tightened with closure of significant low fuel cost capacity in response to historic oversupply. Almost all new capacity in recent years has been in intermittent renewables. This has created challenges in managing the security of the system.
  - price signals for new flexible, firming generation or storage that is able to match the variation in intermittent supply are improving but are **not yet at the level to support these types of generators to recover their costs**.
  - New entry is important feature of a competitive market and constrains a participant's ability to exercise sustained market power. However, there is a need for policy stability and predictability, investment in long-lived generation assets requires long-term consistent policy signals to support investor confidence.

- Price, in his recent opinion piece, notes that the current market design works well while there are generators operating with relatively high operating costs but does not work as when most generators have very low operating costs such as a system dominated by renewables. Price went on to observe that the low operating cost of renewables such as wind and solar, there are concerns that fixed cost recovery will become uncertain, and this will deter investment.[4] The article then proceeds to suggest policy and market design amendments that might address these issues.

Reports and recommendations to be based on evidence and analysis

AGL has concerns with a number of assertions made the ACCC REPI, and it would welcome the opportunity to discuss these further with the ACCC in that they appear to underpin a number of comments made in this Consultation Paper. These concerns include, but are not limited to:

- The ACCC has premised a number of recommendations on the assertion that the electricity market is characterised by high levels of concentration, and there is a lack of competition in the generation/wholesale market. However, AGL notes that the levels of concentration in the electricity

[2] Price, Danny, *Forget the deceptive and toxic NEG – let's get the NEM right first,* Australian Financial Review, 6 December 2018.
[3] p.iv, AER, *Wholesale electricity market performance report*, December 2018.
[4] Price, Danny, *Forget the deceptive and toxic NEG – let's get the NEM right first,* Australian Financial Review, 6 December 2018.

market as commonly measured by competition regulators across the world show that levels of concentration are moderate at most.

- AGL queries the ACCC's assertion that it assessed the impact of the levels of concentration on the market (namely the extent to which generation capacity is owned/operated by individual entities), rather than the impact of tightening supply and demand. AGL does not believe that the ACCC REPI establishes that the outcomes if the NEM would be any different if individual generators were owned by different entities.

- The ACCC acknowledge there is no evidence of the exercise of market power or market misconduct on the part of the 'big 3'. It also recognises that the NEM was designed to deliver high prices to signal new investment. And yet it still characterises the market as 'broken' and asserts that vertical integration and market concentration were resulting in high prices without any meaningful analysis to support this causal nexus, or any attempt to distinguish between the outcomes one would expect in an energy only market under current market conditions and the outcomes currently observable.

- The ACCC does not consider investment of companies like AGL over the lifetime of assets and through various cycles in the energy only market, but rather focusses solely on the recent times characterised by high pool prices and not the period of oversupply and low pool prices.

- AGL provided the ACCC with a study conducted by Frontier Economics, in which they undertook an analysis of contract liquidity following the vertical integration between formerly independent generation and retail business. Their analysis reveals that:

  > *"…when measured appropriately, contract liquidity improved in the aftermath of the two prominent vertical integrations transactions. These results stem from the reduced need for formerly-unintegrated retailer to procure contracts from generators. The reduction in contract demand from the vertically-integrated retailer increases the ease with which competing retailers may acquire swap contracts. The improvement in liquidity following key vertical integration transactions means that, contrary to the views expressed by the Finkel Expert Panel, AEMO and the ACCC, unintegrated retailers would have greater rather than fewer opportunities to hedge their exposures"*

  The ACCC noted in the REPI that it accepted the logic of Frontier's results but stated

  > *the chosen liquidity metric has its own limitations. For example, based on Frontier's estimate of the effect of vertical integration on supply and demand for contracts, further vertical integration would cause the liquidity metric to continue increasing, even as the amount of contracts supplied into the market diminished. In reality, declining market activity imposes greater risk on all participants, and limits the ability of non-vertically integrated retailers to operate.*[5]

Fuel for generation

The gas and electricity markets are becoming increasingly interconnected. As thermal generation withdraws from the market, the NEM's reliance on gas fired generation is increasing. This increasing importance of gas

[5] p.124, ACCC, *Restoring electricity affordability and Australia's competitive advantage – Retail Electricity Pricing Inquiry – Final Report,* June 2018.

has coincided with, and exacerbated, a tightening in the gas market as LNG plants in Queensland have driven a dramatic increase in demand.

In the December 2018 Interim Report of the Gas Inquiry 2017-2020, the ACCC noted “that the long-term supply and demand outlook remains tight and uncertain.”[6] AGL shares these concerns, and the impact they might have on AGL’s ability to contract gas in the future. AGL notes in this context that its ability to maintain its current level of service to both gas consumers and its gas powered generation facilities depends on its ability to source gas. As the role of gas powered generation in the NEM increases with the withdrawal of coal fired assets, so too does the relevance of the gas market supply and demand dynamics to the physical and financial electricity market.

Increasing linkage of domestic coal to export parity prices

Coal is increasingly being bought on global indices and accordingly contracts are changing because it is unknown where fuel prices are going. This will have considerable impact on the wholesale market.

[6] p.33, ACCC, *Gas Inquiry 2017-2020 Interim Report*, December 2018.

1. Specific Questions for Consultation

1) The appropriate analytical framework(s) for the ACCC's monitoring activities, including

a. What frameworks are most relevant to the electricity market

b. How the ACCC should incorporate these overarching frameworks into its monitoring activities

Market Failure Framework

AGL supports an analysis that is premised on understanding if the market is functioning as an effective, competitive market. However, AGL refers to its comments above, and notes that:

- The AER conducts this very analysis in its WEMPR, and the AEMC in its retail reviews. The extent to which the ACCC needs to conduct its own analysis is a question that should be carefully considered;
- In the event the ACCC determines it is necessary to conduct its own analysis, such analysis must be premised on a full comprehension of what outcomes should be reasonably expected in the context of an energy only market operating under the existing set of circumstances, including the transition to low carbon technologies, generation fuel constraints, and the challenging regulatory and policy environment. The AER WEMPR notes that "*perfect competition rarely arises in practice. The NEL requires us to assess whether is 'effective' competition, rather than perfect competition*"[7] ;
- Consideration needs to be given to reforms that have already been commenced, particularly in the retail segment; and
- Where symptoms of market failure are identified there needs to be a thorough analysis of the root causes of those outcomes in order to support a finding of market failure.

Legal Framework

AGL is very supportive of the ACCC including considerations of the legal, regulatory and policy environment in seeking to better understand the current market operations and outcomes. Further, AGL encourages the ACCC to consider:

- the likely impact of proposed regulatory change (e.g. the introduction of the 5 minute market);
- the risk of unintended consequences of regulatory intervention and the impact that can have on customer experience and investment risk; and
- the need to understand the likely effect of recent initiatives before introducing further interventions.

A Distributional or Equity Framework

AGL is very supportive of the continued focus of the ACCC in conducting an analysis of consumer outcomes, and the degree to which those align with community expectations. AGL looks forward to working with the ACCC (and other regulators considering these issues) to further understand the most effective way to ensure there is targeted support for vulnerable customers. AGL is committed to supporting hardship customers through specific hardship products, announcing $50 million in debt relief in 2018, tools that connects these customers with tailored financial assistance options and AGL's hardship program Staying Connected.

AGL would encourage the ACCC to include in its analysis:

[7] p2, AER, *Wholesale electricity market performance report*, December 2018.

- an assessment of whether those that need assistance are able to access targeted assistance. One of the most difficult issues in the market is providing meaningful and relevant assistance to hardship and vulnerable customers, particularly as these customers can sometimes be difficult to identify unless they are prepared to engage with their retailer;
- what initiatives are being suggested/enacted by other regulators and government bodies; and
- further consideration of the issues raised in the REPI regarding the cross-subsidisation that currently occurs in respect of solar feed-in tariff schemes and the SRES.

2) Current overlapping and inconsistent methodologies to market monitoring, and suggestions for preferred approaches.

AGL does not fully understand the ACCC's question in this respect and would welcome the opportunity to discuss. As noted above, AGL encourages the ACCC to refer to the work being done by the AER and the AEMC in so far as possible.

3) Which retail price data collected and reported on in REPI (as set out above) was insightful and should be produced on an ongoing basis as part of the monitoring function.

AGL is of the view that the following should be considered when collecting and reporting on retail price data:

- High-level financial data is the most insightful. It requires less reliance on data that is subject to business specific assumptions and decisions, resulting in more consistency between retailer and so will be more meaningful for analysis;
- Requiring data not produced in the ordinary course has inherent limitations as to its reliability - it will necessarily rely on assumptions, and is unlikely to provide robust consistency through time as it relies on retrospectively over laying assumptions. AGL also notes that the production of assumption based information often imposes significant burden on the recipient.

4) Is there retail price data not reported on in REPI that would be useful to understanding how well the retail market is functioning?

AGL notes the AEMC's broad range of factors that it monitors through its annual retail competition review. AGL encourage the ACCC to rely on this work rather than duplicate its efforts.

5) Are there different approaches to the analysis of REPI or other data that would be more useful than the analysis reported in REPI?

Please refer to question 3.

6) The best way to measure the relationship between wholesale and retail prices over time, including:

a. How wholesale prices affect retail prices and the ways in which this can be measured

b. What types of monitoring or analysis would best reveal the relationship between wholesale and retail prices

The relationship between wholesale costs and retail prices, and the best measure of determining that relationship, is one that has been the topic of considerable historical debate in the context of jurisdictional price reviews. AGL notes that:

- the Wholesale Energy Cost, or WEC as it was commonly referred to in regulated pricing processes, is one component in the retail price cost stack, as depicted at Figure 1 of the Consultation Paper;
- there are numerous ways for retailers to manage the risk of the wholesale market including vertical integration, hedging, or purchasing on the spot market. All approaches carry a differing degree of risk dependent on market conditions which impact the wholesale price;
- the relationship between each individual retailer's wholesale cost is not relevant, but rather the range of costs a new entrant retailer might incur in supplying customers should set the benchmark WEC against which this analysis is considered. There are a wide range of methodologies that have been considered in seeking to determine this range of costs; and
- the observable market price of forward contracts and the long run marginal cost of the generation mix) necessary to supply relevant customers (considered on a greenfields basis) have formed the basis of methodologies previously considered.

7) What types of data are necessary to undertake this analysis

As noted above, there are a variety of methodologies which would require different data sets. These include the observable market price of forward contracts and the long run marginal cost of the generation mix necessary to supply relevant customers (considered on a greenfields basis).

8) Analysis of the wholesale market that the ACCC could produce to complement the existing work of other agencies monitoring wholesale prices.

AGL again note the reporting that has been, and will be, conducted by the AER in its regular WEMPRs and suggests the ACCC refer to this in satisfaction of the Terms of Reference rather than replicating this analysis.

9) Analysis of retailer and generator profitability. In the case of wholesale profitability, what analysis could the ACCC produce to complement existing work monitoring generators or retailers?

While it is not clear what the ACCC means by generator profitability, AGL would be happy to discuss this further once it is better understood. AGL agrees with the views put forward by the AEC in its submission to the ACCC, namely that:

> *When considering the competitive functioning of a market, it is not meaningful to analyse any particular firm's actual profitability, as this will be purely a function of its individual circumstances rather than revealing anything intrinsic about its industry. For example, its accounting profitability will be most affected by historic financing matters, such as the carrying value of the business' assets. When considering the economic conditions of an industry, studying firms' accounting profit is not meaningful; as arbitrary re-valuations can occur at any time.*
>
> *Instead the question of "profitability" should be approached theoretically. The ACCC should develop a concept of an "efficient new-entrant" generating firm and determine whether current wholesale conditions imply equal, greater or less than economic profitability for such a new-entrant.*

To the extent the ACCC considers it necessary to analyse individual retailer and generator profitability, then profitability should be considered in the context of:

- the life of the customer and/or asset. This is particularly true of generator profitability, where the cyclical nature of the energy only market, and therefore the returns on investment can only be considered properly over the life of the asset;

- the appropriate rate of return given the risk of the investment. Again, this is particularly true of investing in generation in the NEM, in a market increasingly characterised by intervention, policy risk, fuel risk, and technology/disruption risk.

10) What methodology should the ACCC use in its approach to monitoring hedge contract markets? Are there specific metrics or pieces of information that are not currently reported that would be informative for market participants and policy makers? What types of data or information would be most valuable, and who should they be sought from?

There is no definitive definition of liquidity, and while there are many different indicators available to measure liquidity, there is no single metric that is determinative of the liquidity of a market. Frontier Economics note there are generally considered to be five key characteristics of liquid markets – tightness, immediacy, depth, breadth and resiliency."[8] Previous studies and commentary on liquidity have considered the issue in a relatively narrow context, focusing on the absolute volume of standard trades conducted, and perhaps not given sufficient weight to matters such as the range of products available beyond swaps and caps that are used to manage risk in the market (for example weather derivatives, SRAs).

AGL would welcome the opportunity to discuss in further detail with the ACCC the context in which they are seeking to understand liquidity (e.g. is it the question of whether retailers are able to effectively manage their risk) and then provide further views on what information/data that might be of use. AGL notes that the ESB recently consulted on OTC Transparency in the NEM and whether the National Electricity Law should be amended to require reporting of over-the-counter trades to a repository administered by the AER. AGL encouraged the ESB to rely on the Australian Financial Markets Association (AFMA) annual survey which has been recently re-introduced. Regardless of whether the AER relies on this survey information or commences its own data collection, it appears highly likely it will be considering this information in the preparation of the WEMPR. AGL would encourage the ACCC to rely on this analysis wherever possible.

AGL is of the view that in considering liquidity in electricity markets, ACCC should also consider the drivers and inhibitors to liquidity in conducting the Inquiry. AGL notes that in the ACCC REPI, the ACCC made a number of assertions about the impact of vertical integration on liquidity, without conducting any real analysis to support these findings. AGL notes in this context that there are a number of factors the ACCC should routinely consider when analysing liquidity, including:

- the extent to which synchronous generation capable of supporting firm contracting is being displaced by intermittent generation that does not support firm contracting;
- the impact of regulatory changes such as the move to 5 minute settlement periods;
- the impact of generation fuel constraints – e.g. gas supply for gas powered generators and water for hydro plant;
- the impact of any increased reliance on interconnection (that sells SRAs) which is likely to displace indigenous generation capable of selling forward contracts; and
- any increase in the contracting and compliance costs, for example the recent increase in contracting cost imposed by the ASX.

11) The value of the types of contract market measurements reported on in REPI, and which, if any, or these measurements should be prioritised to be monitored on an ongoing basis.

[8] p. iii, Frontier Economics, *Contract market liquidity in the NEM – a report prepared for Herbert Smith Freehills*, May 2018.

See response to Q10 above.

12) How an efficient electricity market can be expected to operate.

AGL again refers the ACCC to the AER WEMPR, and the AEMC retail reviews. The extent to which the ACCC needs to conduct its own analysis is a question that should be carefully considered;

In the event the ACCC determines it is necessary to conduct its own analysis, AGL refers to its comments above in relation to the need to conduct this analysis with reference to the design features of an energy only market, and to ensure that the root cause of observable outcomes is identified rather than make assumptions about the role of concentration or vertical integration.

AGL also suggest the ACCC consider whether there is an alternative market design that is more suited to driving the level of investment required over this period of transition.

13) What specific measurements or thresholds of market outcomes or participant behaviour should be used in the ACCC's electricity market monitoring?

AGL again refers the ACCC to the AER WEMPR, the AEMC retail reviews, and the ESB market monitoring. The extent to which the ACCC needs to conduct its own analysis is a question that should be carefully considered

To the extent the ACCC considers it necessary to conduct its own analysis, AGL would welcome the opportunity to discuss this with the ACCC once AGL understands what work the ACCC considers necessary to complement the work done by other regulators.

14) What policy issues are likely to impact on the functioning of the electricity market and should therefore be a focus of monitoring by the ACCC?

The energy market has been, and continues to be, the subject of a large number of regulatory and policy inquiries, each resulting in recommendations for change. Some of these changes have already been implemented, but their impacts are still filtering through the market. Some of the changes have not yet taken effect, but some of the consequences will start to take effect prior to the actual implementation date (e.g. 5 minute rule change, 3 year notice of closure rule). AGL has provided a list of some of the relevant changes the ACCC will need to consider at Annexure 1. AGL notes that the impact of regulatory change on the market needs to be considered holistically – while each might not have a significant impact on a stand-alone basis, the contribution each makes to the environment in which market participants operate needs to be properly understood.

15) What methodological approaches could be undertaken by the ACCC in monitoring the impact of particular policy developments?

AGL would encourage the ACCC to discuss with industry participants and other regulators their views and understanding of the impacts of existing and pending regulatory and policy changes. Importantly, the impact of regulatory change on the market needs to be considered holistically – while each might not have a significant impact on a stand-alone basis, the contribution each makes to the environment in which market participants operate needs to be properly understood.

16) The proposed reporting schedule and how it may affect your business.

Please see the response to question 19.

17) Other similar reporting requirements your business is subject to, and the degree to which the ACCC's monitoring activities could align with those requirements (or information could be shared between agencies to minimise duplicative requests).

AGL participates in a wide range of regulatory and industry inquiries/studies, including but not limited to:

- AER reviews – including the monitoring and report on the performance of the NEM under the National Electricity Law, network performance and, compliance and performance of the retail energy market.
- AEMC reviews – including the annual retail energy competition review as well as topic specific reviews initiated by COAG Energy Council such as on the recent direction to review the impacts of the Commonwealth's proposed default tariff on competition issues and customer impacts.
- The Energy Security Board (ESB) is also presently developing a number of key performance metrics that cover all aspects of the industry as well as consulting on specific policy changes.
  AFMA Australian Financial Markets Report – which surveys the activity and trends in Australia's financial markets.

18) Whether particular measurements are likely to be more suitable for the March or September report, given the time of year those measurements are typically produced by your business, and the time required to finalise and collate that information.

AGL notes that mid and half year results are generally not available until 5-6 weeks after the end of the financial reporting period because of the effort to extract, analyse and review the data. To allow the ACCC sufficient time to consider any full or half year financial year related data and draw any conclusions for the purposes of a report, it may be prudent to consider May and November as reporting periods.

19) Factors that may impact the proposed schedule of information requests and reports, such as other regulatory obligations at similar times.

Further to the above, AGL notes that external financial reporting for half and full year results are generally released in February and August of each year. AGL notes that between January and February and July and August, internal finance resources are focussed on fulfilling financial reporting compliance obligations. AGL would request that wherever possible, information requests are not received in those time periods or additional time for compliance with such notices is provided in consideration of this.

20) For information that needs to be requested from market participants, whether any information can be effectively captured via voluntary requests.

AGL always co-operates with the ACCC and is often happy to comply with requests on a voluntary basis. . However, AGL notes that there may be confidentiality requirements with third parties that will impact on whether it is possible to comply on voluntary basis. AGL suggests the ACCC discuss these matters with it as the circumstances require.

21) Any relevant issues regarding the timing of reporting such as the value of certain information being available at certain times of year.

AGL would note that consideration should be given to market settlement timeframes and that revisions in the market at 20 and 30 weeks do occur, more recent data must be considered in this context.

Appendix 1 – Examples of current and proposed policy developments in the Electricity Market

- NEG
- Carbon Price
- Retailer Reliability Obligation
- Victorian, Queensland, ACT and South Australia renewable targets
- Tasmanian battery of the nation policy
- Transmission developments in New South Wales and South Australia
- South Australia Energy Transformation Road Map
- Snowy 2.0
- Victorian renewable auction
- Consumer data right
- Open networks design
- SRES
- SA-NSW Interconnector
- 5 Minute Settlement
- Market Making Obligation
- Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018
- OTC contracting
- Global Settlement and Market Reconciliation
- Underwriting New Generation Investment
- Retail Electricity Pricing Inquiry
- Gas Transparency Inquiry
- Reliability and Emergency Reserve Trader
- VPP Demonstrations by AEMO with view to rule changes/deployment
- RERT Rule enhancement (AEMO)
- Reliability framework review (AER)
- Generator 3 year notice of closure
- Frequency control frameworks review (AEMO and AER)
- Enhanced Frequency control scheme rule
- RoCoF rule
- Generating system model guidelines rule
- Inertia Ancillary service market rule
- Register for DER's
- Generator technical performance standards rule
- Review of system black event in SA (AER, and AEMO)
- Distributed Energy Resource register,
- Wholesale Demand Response Mechanism,
- Coordination of Generation and Transmission Investment,
- Actioning the ISP

Examples of gas market developments that will impact the electricity market

- Pipeline capacity trading
- Gas day harmonisation
- Pipeline regulation and coverage test reviews
- DWGM review (next year)