RULING ON CONFIDENTIALITY

1. AGL Energy Limited ("AGL") has applied to the Tribunal for an authorisation under s 95AT(1) of the Competition and Consumer Act 2010 ("CC Act") of its proposed acquisition of the assets of Macquarie Generation. The Tribunal determined that AGL’s application was valid as at 27 March 2014.

2. On 26 March 2014, AGL requested, pursuant to s 95AZA of the CC Act ("26 March request"), that, because of its confidential nature, certain information in the application and accompanying documents be excluded from the Tribunal’s authorisation register and from the website of the Australian Competition and Consumer Commission ("ACCC"). The 26 March request set out the specific claims of confidentiality and the basis for those claims. The 26 March request also identified whether confidentiality was claimed on AGL’s behalf, on behalf of Macquarie Generation and the State of New South Wales or on behalf of third parties.
4. On 27 March 2014, the ACCC made a submission on AGL’s 26 March request (“27 March submission”). The ACCC submitted that the Tribunal should refuse AGL’s claim of confidentiality in respect of certain information and that the Tribunal may wish to seek further information in relation to, or refuse, a number of other claims of confidentiality. The ACCC listed a total of 26 claims of confidentiality that it submitted the Tribunal should refuse or query.

5. On 2 April 2014, AGL, Macquarie Generation and the State of New South Wales made submissions in reply to the ACCC’s 27 March submission. AGL’s submission included an annexure (“Annexure A”) which is a marked up version of its 26 March request showing the claims that AGL, Macquarie Generation and the State of New South Wales seek to maintain. Annexure A is attached to this ruling.


7. On 4 April 2014, the ACCC informed the Tribunal that it did not wish to make submissions in reply to the AGL, Macquarie Generation and State Of New South Wales submissions of 2 April 2014.

8. The Tribunal determines, pursuant to s 95AZA of the CC Act, that the confidentiality claims maintained by AGL, Macquarie Generation and the State of New South Wales, as set out in AGL’s Annexure A attached to this ruling, and the additional claim made by Macquarie Generation and the State of New South Wales on 4 April 2014 are upheld.