

Appendix A Victorian Energy Retailers

As at 1 September 2007, 26 businesses were licensed to retail electricity and 12 businesses were licensed to retail gas in Victoria. However, not all entities that hold retail licences sell energy to domestic and/or small business customers. As at 1 September 2007, 13 of the Victorian retail electricity licensees were selling to customers consuming less than 160MWh per annum and 6 gas licensees were selling to customers consuming less than 5TJ per annum.²⁷⁸

This Appendix will provide a brief description of each of the Victorian retail businesses. Table A.1 shows a summary of the retail electricity and gas licenses held by each company that retails in Victoria.

Table A.1 Electricity and gas retail licenses

Retailer	ACT	NSW	Qld	SA	Tas	Vic
AGL	E + G	E + G	E + G	E + G	–	E + G
Australian Power and Gas	–	E + G	E + G	–	–	E + G
Click Energy	–	–	–	–	–	E
Country Energy	E + G	E + G	E	E	E	E
Jackgreen	E + G	E + G	E	E + G	–	E
Momentum Energy	–	E	E	E + G	–	E
Neighbourhood Energy	–	–	–	–	–	E
Origin Energy	E	E + G	E + G	E + G	–	E + G
Powerdirect	E	E	E	E	–	E
Simply Energy (formerly EA-IPR)	–	–	–	E + G	–	E + G
Red Energy	E	E	E	E	E	E + G
TRUenergy	E + G	E + G	E	E + G	E	E + G
Victoria Electricity	–	E	E	E + G	–	E + G

A.1 AGL Energy

AGL Energy was formed in October 2006, as a result of a merger of AGL's infrastructure assets with Alinta and the subsequent separation of AGL Energy. AGL Energy retails gas and electricity in the ACT, New South Wales, South Australia and Queensland and Victoria through its subsidiaries which hold retail licences in those jurisdictions. AGL Sales Pty Ltd is the retail gas and electricity subsidiary in Victoria. AGL Energy is one of the three host retailers for each of the gas and electricity regions that operate in Victoria.

²⁷⁸ This figure includes Momentum Energy Pty Ltd, who ceased retailing electricity to domestic customers in Victoria in July 2007 but continues to supply small business customers in the jurisdiction.

In Victoria, AGL Energy holds 31 per cent of domestic electricity customers (651,077), 24 per cent of small business electricity customers (66,304)²⁷⁹ and 31 per cent of domestic gas customers (505,435) and 26 per cent of business gas customers (11,361).²⁸⁰

AGL Energy owns a number of generation assets throughout Victoria, South Australia and New South Wales, with a total combined capacity of 998.5 MW and has a 32.5 per cent share in the Loy Yang A power station, which has a total capacity of 2,120 MW.

A.2 Australian Power & Gas

Australian Power & Gas Pty Ltd was founded in July 2006. It is a wholly owned subsidiary of Australian Power & Gas Limited (APG), an Australian publicly listed company. Australian Power & Gas holds licences to retail gas and electricity in Victoria, New South Wales and Queensland.

In July 2007, Australian Power & Gas acquired 15,000 domestic customers (including approximately 11,000 Victorian domestic customers²⁸¹) from Momentum Energy in a trade sale. This purchase brought the number of gas and electricity customer accounts held by Australian Power & Gas nationally to 50,000. Australian Power & Gas has upgraded its forecast customer base to 65,000 accounts by the end of the year.²⁸²

A.3 Click Energy

Click Energy Pty Ltd was granted a Victorian electricity retail licence in June 2006 and has focused on interacting with customers electronically as a dedicated online energy retailer.²⁸³ Click Energy does not hold a licence to retail gas. Click Energy does not presently operate retail electricity or gas businesses in other jurisdictions.

A.4 Country Energy

Country Energy, formed in July 2001 through the merger of three regional electricity distributors, is owned by the NSW government. Country Energy holds licences to retail gas and electricity in the ACT and New South Wales. Country Energy also holds electricity retail licences in Victoria, Queensland, South Australia and Tasmania. Country Energy does not presently hold a gas retail licence for Victoria.

²⁷⁹ AER, *State of the Energy Market 2007*, p173.

²⁸⁰ ESC, *Energy Retail Business Comparative Performance Report for the 2005-06 Financial Year*, November 2006, p.2.

²⁸¹ Essential Services Commission, *Draft Decision: Amendments to Energy Retail Code and Electricity Transfer Code – Retailer of Last Resort and Assignment to Third Party*, p. 6.

²⁸² Australian Power & Gas, *50,000 customer accounts as Victorian acquisition completed*, ASX/Media Release, 6 August 2007.

²⁸³ Essential Services Commission, *Electricity Industry Act 2000 Application for a retail licence: Click Energy Pty Ltd – Notice of Decision*, 21 June 2006.

Country Energy owns gas networks in NSW (managed by Country Energy Gas Pty Ltd) and electricity networks in NSW and Qld. As at September 2007, Country Energy has more than 870,000 gas and electricity customers throughout NSW, VIC, QLD, SA and ACT.

A.5 Simply Energy (formerly EnergyAustralia)

The EA-IPR Retail Partnership was a 50/50 partnership formed between EnergyAustralia Pty Ltd and IPower Pty Ltd, a subsidiary of International Power Australia. On 26 May 2007, EnergyAustralia announced that International Power Australia had acquired its remaining shares in the partnership.²⁸⁴ Effective from 1 August 2007, the name of the partnership changed to Simply Energy. The company retails gas and electricity in Victoria and South Australia.

As at September 2007, Simply Energy held over 400,000 gas and electricity customer accounts in Victoria and South Australia.

International Power Australia, Simply Energy's parent company, owns generators and peaking plants in both Victoria and South Australia.²⁸⁵ The total generation capacity is 890 MW. IPA also owns a share of the SEA Gas underground pipeline between Iona and Pelican Point.

A.6 Jackgreen

Jackgreen (International) Pty Ltd was launched in 2004 and is a wholly owned subsidiary of Jackgreen Ltd, an Australian owned company which is listed on the Australian Stock Exchange. Jackgreen operates retail electricity businesses in Victoria, Australian Capital Territory, New South Wales, Queensland and South Australia. Jackgreen does not currently retail gas but is licensed to do so in the ACT, NSW and South Australia.

Jackgreen has an environmental focus and every product contains between 10 and 100% electricity that is accredited by GreenPower.

A.7 Momentum Energy

Momentum Energy holds electricity retail licences for Victoria, New South Wales, Queensland and South Australia, however as at March 2007, the company was not actively marketing to small customers in New South Wales or Queensland.²⁸⁶ The company does not presently supply gas, however, they have a gas retail licence for South Australia.

²⁸⁴ EnergyAustralia, *EnergyAustralia announces sale of South Australia and Victoria retail operations*, News release, 26 May 2007.

²⁸⁵ International Power Australia owns the Hazelwood generator in Victoria and the Port Lincoln, Mintaro, Dry Creek and Snuggery peaking units, the Pelican Point generators and the Canunda wind farm in South Australia.

²⁸⁶ AER, *State of the Energy Market 2007*, p. 175.

In July 2007, Momentum Energy Pty Ltd sold its 15,000 domestic customers (including all Victorian domestic customers, accounting for approximately 11,000 customers²⁸⁷) to Australian Power and Gas²⁸⁸ but continues to serve its small and medium enterprise (SME) electricity customers.

A.8 Neighbourhood Energy

Our Neighbourhood Energy Pty Ltd (Neighbourhood Energy) is a community focused retailer licensed to retail electricity in Victoria, which it does under the Neighbourhood Energy trading name. Neighbourhood Energy does not retail gas.

Neighbourhood Energy is a registered fundraiser in Victoria and as such its customers can elect to donate their 'pay-on-time' discount to a charity or community group associated with their Community Partner Program.

A.9 Origin Energy

Origin Energy Limited is an Australasian integrated energy company with interests in gas and oil exploration and production, energy retailing, power generation and utility network management. Origin Energy was de-merged from Boral Limited in February 2000 and separately listed on the Australian Stock Exchange. Origin's Victorian retail energy business, where it is a host retailer for gas and electricity, is conducted pursuant to licences held by its subsidiary companies, Origin Energy Electricity Limited (electricity licensee), Origin Energy Gas Limited and Origin Energy (Vic) Pty Ltd (gas licensees). Origin Energy also retails gas and electricity, through its subsidiaries, in New South Wales, Queensland and South Australia and retails electricity in the Australian Capital Territory. In November 2006, Origin Energy acquired Sun Retail and its 800,000 customers from ENERGEX in Queensland.

Origin's customers are located primarily in Victoria, South Australia and New South Wales. In Victoria, Origin holds 32 per cent of the domestic electricity customers (660,666) and 38 per cent of the small business electricity customers (104,981).²⁸⁹ For gas, in Victoria Origin holds 35 per cent of the domestic customers (547,988) and 31 per cent of the business customers (13,656).²⁹⁰ Origin Energy has interests in 870 MW of generation throughout Australia. Of this total, 250 MW is internally contracted.

287 Essential Services Commission, *Draft Decision: Amendments to Energy Retail Code and Electricity Transfer Code – Retailer of Last Resort and Assignment to Third Party*, p. 6.

288 Momentum Energy, *Transfer of Momentum Energy's Victorian residential customers to Australian Power & Gas*; press release July 24 2007;

289 AER, *State of the Energy Market 2007*, p.175.

290 Essential Services Commission, *Draft Decision: Amendments to Energy Retail Code and Electricity Transfer Code – Retailer of Last Resort and Assignment to Third Party*, p. 6.

A.10 Powerdirect

Powerdirect Pty Ltd, formally Australian Energy Ltd, was sold to the Queensland Government owned Ergon Energy in 2006. As a result of restructuring in the Queensland electricity retail sector Powerdirect was sold by the Queensland Government to AGL Sales Pty Ltd in 2007 and now forms part of the AGL Energy group. Powerdirect is licensed to retail electricity in Victoria, Australian Capital Territory, New South Wales, Queensland, and South Australia. Although Powerdirect's customer base ranges from households to large customers, its focus is on servicing small and medium enterprise customers.

A.11 Red Energy

Red Energy Pty Ltd formally launched its electricity retail business in Victoria on 8 July 2004.²⁹¹ Since November 2004, Red Energy has been wholly owned by Snowy Hydro Pty Ltd, a generator operating in the NEM. The company holds a Victorian gas retail licence but does not presently operate a gas retail business. Red Energy is also licensed to retail electricity to residential and/or small business customers in the Australian Capital Territory, New South Wales, Queensland and South Australia. Red Energy is currently an active retailer in both Victoria and South Australia.²⁹²

A.12 TRUenergy

TRUenergy is a host gas and electricity retailer in Victoria. It is a new integrated business that comprises of what was formally TXU, Yallourn Energy and Auspower. TRUenergy was purchased by CLP Power Asia, which is a subsidiary of the CLP Group in May 2005. Prior to that, TRUenergy was the retail arm of the TXU energy business owned by Singapore Power. Through its subsidiaries, TRUenergy Pty Ltd and TRUenergy Yallourn Pty Ltd, TRUenergy is licensed to retail electricity and gas in Victoria, Australian Capital Territory, New South Wales and South Australia, including residential and business customers in the ACT, NSW and South Australia. TRUenergy also retails electricity in Queensland.

As at 31 December 2006, TRUenergy had a total of 600,000 electricity and 500,000 gas accounts.²⁹³ These customers are primarily located in Victoria where it has 24 per cent of the domestic electricity customers (497,676) and 23 per cent of the small business electricity customers (63,541). TRUenergy also holds 27 per cent of the domestic gas customers (431,364) and 40 per cent of the small business gas customers in Victoria (17,264).²⁹⁴

²⁹¹ Red Energy, *Red Energy launches in Victoria: New player promises to shake up the energy scene*, News release, 8 July 2004.

²⁹² AER, *State of the Energy Market 2007*, p. 171.

²⁹³ CLP Holdings Limited, *2006 Annual Report*, 2006. 83.

²⁹⁴ Essential Services Commission, *Draft Decision: Amendments to Energy Retail Code and Electricity Transfer Code – Retailer of Last Resort and Assignment to Third Party*, p. 6.

TRUenergy owns a number of generation assets in Victoria and South Australia, with a total generation capacity of 1575 MW and is currently constructing a new generator in NSW, which will have a capacity of 400 MW.

A.13 Victoria Electricity

Victoria Electricity Pty Limited commenced trading in 2004 and has been a wholly owned subsidiary of Infratil Limited since April 2007. Infratil also operates in other states through its subsidiaries South Australia Electricity, New South Wales Electricity and Queensland Electricity. Victoria Electricity and South Australia Electricity are licensed to retail electricity and gas (but South Australia Electricity is actively retailing electricity only). New South Wales Electricity and Queensland Electricity are licensed to retail electricity only in those jurisdictions, though they have not yet commenced operations. As of May 2007, Victoria Energy had 250,000 customers.

Infratil also owns Infratil Energy Australia (IEA), which provides wholesale risk management and energy trading support to Victoria Electricity. IEA owns two power stations in South Australia, with a combined total capacity of almost 70 MW.

B Appendix B Market Offers for Domestic and Small Business

B.1 Market Offers for Domestic Customers

Summary of Current Market Offers Available to Domestic Customers

Market Offer	Available Discount from the Standing Offer ¹	Term	Price Discount From Standing Offer	Prompt Payment Discount	Early Termination Fees	Other Price or Non-Price Benefits
First Tier Retailers						
AGL						
AGL Advantage (Electricity Only and Dual Fuel)	0%	3 Years	No	No	\$75	\$50 AGL Voucher (conditions apply) AGL note that customers are entitled to an upfront benefit, usually provided as a credit on the customer's bill.
AGL Freedom 5% (Electricity Only and Dual Fuel)	4%	No term	4% ²	No	\$0	\$50 AGL Voucher (conditions apply)
Origin Energy						
Origin Single Rate (Electricity Only and Dual Fuel)	0%	No Term	No	No	No	No
Origin Off Peak ³ (Electricity Only and Dual Fuel)	0%	No Term	No	No	No	No
TRUenergy						
TRUenergy Go For More (Electricity Only and Dual Fuel)	6%	3 Years	3% ⁴	3%	\$90 in Year 1, \$70 in Year 2, \$50 in Year 3	No
TRUenergy Go Easy (Electricity Only and Dual Fuel)	3%	No	No	3%	No	No

Second Tier Retailers						
Australian Power and Gas						
APG Simplicity Plus ⁵ (Electricity Only and Dual Fuel)	5%	No Term	No	5%	No	No
APG Saver Plus ⁵ (Electricity Only and Dual Fuel)	6% Elect 5% Gas ⁶	3 Years	2 - 3% ²	3%	\$60 in Year 1, \$50 in Year 2 and \$40 in Year 3	\$25 Up-Front Rebate
Click						
Click Quick ⁷	7 – 9% ⁸	No Term	No	5%	No	\$25 in Year 1, \$25 in Year 2 for signing up online
Click Easy ⁷	7 – 9% ⁸	No Term	No	5%	No	\$25 in Year 1, \$25 in Year 2 for signing up online
Country Energy						
Country Energy Premium and Super Saver	9 - 10%	2 Years	6 - 7%	No	\$95	\$60 on completion of transfer to Country Energy
Country Energy You're 'n Charge ⁹	N/A	2 Years	N/A	No	\$95	\$60 on completion of transfer to Country Energy
Simply Energy						
Fixed Energy Offer (Electricity Only and Dual Fuel)	<0% ¹⁰	2 Years	No	No	No	No
Jackgreen						
Jackgreen General Domestic Tariff	5%	No Term	No	5% ¹¹	No	10% GreenPower
Jackgreen Off-Peak Hot Water	5%	No Term	No	5%	No	10% GreenPower
Powerdirect						
Powerdirect Single Rate ¹²	0 – 3%	3 Years	0 – 3% ¹³	No	\$48	No
Powerdirect Five Day Two Rate ¹²	0%	3 Years	No	No	\$48	No
Victoria Electricity Limited						
VEL Residential Standard ^{5,14} (Electricity Only and Dual Fuel)	0%	No	No	No	No	No

Source: Offers available as per Product Information Statements on retailer's websites as at 24 September 2006. Product Information Statements could not be found for Red Energy or Neighbourhood Energy.

Notes: (1) Available discount based only on immediate price discounts, discounts for prompt payment and other fixed monetary benefits that do not require the customer to incur expenditure on other items. Up-front monetary benefits are allocated evenly over the term of the relevant contract. (2) The discount is allocated to the consumption component only, ie, there is no discount applied to the fixed charge. (3) Contract offered as Standard or Dedicated Hot Water (4) Due to the structure of this tariff, the discount can exceed 3% depending on the level of consumption. (5) Contract offered as Peak or Peak and Off-Peak (6) \$25 discount applied to electricity component only (7) Contract offered as Peak or Peak and Off-Peak or Dedicated Off-Peak Load (8) Benefit includes \$25 discount and therefore varies depending on consumption and whether the customer is on a Peak only or Peak/Off-Peak contract (9) Requires a Domestic Time of Use Meter (10) This offer is at a premium to the standing offer, however rates are fixed for the term of the contract. (11) Discount not available on 100% GreenPower (12) Powerdirect note that the product information statements outline a base product only and refer readers to the Powerdirect sales team for products more specific to their needs (13) The rate is structured differently to the standing offer such that the relative discount increases with consumption (14) Victoria Electricity note that the pricing specified on their website is for their default rates only and does not specify any prompt payment discounts or other price or non-price incentives. Fixed term contracts may be available.

B.2 Market Offers for Small Business Customers

Summary of Current Market Offers Available to Small Business Customers

Market Offer	Available Discount from the Standing Offer ¹	Term	Price Discount From Standing Offer	Prompt Payment Discount	Early Termination Fees	Other Price or Non-Price Benefits
First Tier Retailers						
AGL						
AGL Tariff E (Electricity Only) ²	0+%	No Term Specified	0+% ³	No	No	No
AGL Tariff D (Electricity Only) ²	2%	No Term Specified	2% ⁴	No	No	No
Origin Energy						
Origin Option 1 (Tariff E and D) (Electricity Only) ²	10%	No Term Specified	10%	No	No	No
TRUenergy						
TRUenergy Business Now (Electricity Only and Dual Fuel)	6%	No Term Specified	3%	3%	No	No
TRUenergy Business Edge (Electricity Only and Dual Fuel)	10%	No Term Specified	10% ⁵	No	No	No
Second Tier Retailers						
Click						
Click Business	5 – 6%	3 Years	0%	5%	\$110 (Maximum)	\$25 in Year 1, \$25 in Year 2 for signing up online
Country Energy						
Country Energy You're 'n Charge ⁶	7%	2 Years	7%	No	\$95	\$60 on completion of transfer to Country Energy
Powerdirect						

Powerdirect Business Single Rate	0+%	3 Years	0+% ²	No	\$99	No
Powerdirect Five Day Two Rate	2%	3 Years	2% ³	No	\$99	No
Victoria Electricity Limited						
VEL Commercial Standard Rate ⁷ (Electricity Only and Dual Fuel)	0%	No Term Specified	0%	No	No	No

Source: Offers available for small businesses in the Origin (CitiPower) distribution area only as per retailer's websites as at 24 September 2006.

Notes: (1) Discounts calculated for annual consumption of 12,000kWh peak consumption for Tariff E and 25,000kWh peak and 15,000 kWh off-peak consumption for Tariff D. Available discount based only on immediate price discounts, discounts for prompt payment and other fixed monetary benefits that do not require the customer to incur expenditure on other items. (2) Information contained on retailer's website is for electricity supply only. It is unclear whether the retailers provide small business customers with dual fuel offers at a discount to the standing offer. (3) Discounts are attached to the variable rate applied to consumption over 1,250kWh per month such that savings from the standing offer become available as consumption increases. (4) Discount of 3% applied to peak variable charge (4) Discount applied to standard business electricity rates, fixed for the first 12 months. It is unclear whether any discount is provided for gas supply. (5) TRUenergy note that conditions apply, although it is unclear what these conditions are. (6) Requires a Business Time of Use Meter (7) Victoria Electricity note that the pricing specified on their website is for their default rates only and does not specify any prompt payment discounts or other price or non-price incentives. Fixed term contracts at fixed rates are available for up to 48 months, subject to certain conditions.

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Appendix C Information Requirements

Energy retailers are required to make information about their market offers available to customers in accordance with both the ESC's *Guideline No. 19: Energy Product Disclosure* (Product Disclosure Guideline) and *Code of Conduct for Marketing Retail Energy in Victoria* (Marketing Code).²⁹⁵ They are also required to provide specific information to customers on their energy bills in accordance with the ESC's Energy Retail Code.²⁹⁶

C.1 Product Disclosure Guideline

In 2004, both the EIA and the GIA were amended to create a deemed licence condition for retailers to publish details of both tariffs and terms and condition of contracts available to small customers on their internet site. In accordance with these amendments, the ESC published an Energy Product Disclosure guideline in August 2005 after consultation with retailers and other relevant stakeholders.²⁹⁷

Under the ESC's Product Disclosure Guideline, all retailers are required to produce and publish on their website a product information statement for each of their market offers, which includes the following:

- All fees and charges separately disclosed, on both a GST exclusive and inclusive basis, including the tariff and early termination fees, if applicable;²⁹⁸
- Where a different tariff is applicable at different times, when the different tariffs apply;
- Details, if applicable, of any rebates (other than government funded rebates), non-price incentives, bill smoothing arrangements and dual fuel arrangements;
- The term of the contract and the termination notification required;
- An explanation of how the tariff and other fees and charges can change, if applicable;
- Where the retailer intends to make the tariff or any other element of the published details available only for a fixed period, the availability and end date.
- A complete description of all the characteristics relevant to determining whether the tariff or term or condition is applicable to a customer ("eligibility criteria");

²⁹⁵ Essential Services Commission, *Guideline No. 19: Energy Product Disclosure*, Issue 2, December 2005 and ESC, *Code of Conduct for Marketing Retail Energy in Victoria*, October 2004.

²⁹⁶ Essential Services Commission, *Energy Retail Code*, Version 3, May 2007, Part 2.

²⁹⁷ The guideline was revised in December 2005. See Essential Services Commission, *Guideline No. 19: Energy Product Disclosure*, Issue 2, December 2005.

²⁹⁸ All fixed fees and charges relating to the supply of energy must be expressed as cents per day and variable fees and charges expressed as cents per kilowatt hour or megajoule.

- A disclaimer statement indicating that the information is indicative only and does not include any applicable network tariff rebates or concessions; and
- A statement which informs and directs the reader to the ESC's website and Energy Comparator for further information.

Retailers are required to update a product information statement within five business days of any change to the information presented in the statement and must provide such statements on request, in writing.

In order to enable customers to access information with relative ease, retailers are required to establish an online process by which customers can easily identify the most relevant product information statement to their circumstances by making a limited number of selections or answering a limited number of questions. Customers should not be required to provide technical or personal information before being able to access one or more product information statements.²⁹⁹ Where the retailer determines that there is no tariff available for the customer based on the information provided, it must communicate this to the customer. Where more than one tariff may apply, the retailer must either provide a product information statement for one of the potentially applicable tariffs or for each potentially applicable tariff and indicate that it is not clear on the basis of the information provided which product information statement applies.

In addition to product information statements retailers must also provide an offer summary in writing to a small customer on request and when providing the customer the terms, or information about the terms, of a new retail contract. Such offer summaries must be a separate document to the full contractual terms and conditions and must include the information set out above, excluding the eligibility criteria and disclaimers.³⁰⁰ Retailers may include more than the minimum information requirements in the offer summaries, although such information should be appropriate and not excessive.

C.2 Marketing Code

Under the Marketing Code, retailers are required to provide customers with certain information before they enter into a contract, including:

- The type, frequency of bills and payment methods the consumer will receive;
- The details of all applicable prices, charges, tariffs and service levels that will apply to the consumer, inclusive of GST;

²⁹⁹ Technical information includes the customer's meter type, consumption, retail tariff, network tariff, distribution area, national metering identifier or meter installation registration number. The ESC notes that it does not intend to prevent retailers from asking customers about these characteristics. Rather, a customer must not be required to provide such information in order to proceed through the online process to obtain a product information statement.

³⁰⁰ In relation to any fixed fees or charges relating to the supply of energy, the offer summary must also include the number of days in the period to which the charge relates.

- Any rights the consumer has to cancel the contract, the charges, if any, that would apply on cancellation and the circumstances where these charges would apply;
- All relevant information about any difference between the contract's terms and conditions and the basic terms and conditions under the Energy Retail Code;
- In the case of contracts formed by door knockers, the full terms of the contract including the period of the contract; and
- Whether the marketing representative will receive a commission or fee from the retailer if the customer enters into a contract.

The retailer is required to provide the customer with a reasonable opportunity to consider this information before entering into the contract. After a customer has entered into a contract, retailers are required to send the following information to the customer within two business days, unless already provided:

- The full terms, conditions and applicable costs of the contract including the period of the contract;
- Advice to the consumer that they have a right to cancel the contract, and a retailer contact point which the consumer may require for further information, or to cancel the contract;
- Government energy assistance schemes which may be available to the consumer;
- How to make a complaint to, or enquiry of, the retailer and details of the Energy and Water Ombudsman of Victoria; and
- The existence and general scope of the Marketing Code and how to access the Marketing Code compliance procedures.

The Marketing Code also requires retailers, among other things, to:

- Refrain from engaging in misleading or deceptive conduct, unconscionable conduct or making false or misleading representations;
- Ensure that all relevant facts are provided and are not exaggerated, use words and images that promote customer comprehension and use best endeavours to ensure that information provided to consumers is truthful and when supplied directly to individual consumers, relevant to that consumer's circumstances;
- Ensure that any comparisons made are clear, factually correct and easily understood by consumers and that they do not omit important information that should be disclosed;
- Ensure that the inclusion of rebates and/or concessions is made clear to consumers and any prices that exclude rebates and concessions be disclosed;
- Provide specific information to a consumer before they enter into a contract and provide the consumer with a reasonable opportunity to consider this information.

In addition to the obligations around marketing activity, retailers must also obtain explicit informed consent before transferring a customer to a market contract.³⁰¹ The ESC considers consent to be explicit and informed where it is given in writing, electronically or verbally, and where the retailer has fully and adequately disclosed, in plain English, all matters relevant to the consent such that the customer was likely to be aware of what the consent applied to.³⁰² Retailers are required to keep a record of any explicit informed consent given by a customer for at least as long as the retailer has any related contract with the customer.³⁰³

C.3 Energy Retail Code

In addition to the above, retailers must also include at least the following information in a customer's bill:

- The relevant tariff or tariffs applicable to the customer;
- Whether the bill is based on a meter reading or is wholly an estimated bill;
- Whether the bill is based on any substituted data;
- The total amount of electricity (in kWh) or of gas (in MJ) or of both consumed in each period in respect of which a relevant tariff applies to the customer;
 - Where the customer's meter measures and records consumption data only on an accumulation basis, the bill must include the dates and total amounts of the immediately previous and current meter readings, estimates or substitutes
 - If the retailer elects to include meter readings or accumulated energy usage from an interval meter on the bill, it must include the meter readings or accumulated energy usage based on quantities read or collected from the corresponding meter accumulation register(s);
- If the retailer directly passes through a network charge to the customer, the separate amount of the network charge;
- The amount payable for electricity and/or gas;
- The amount of arrears or credit and the amount of any refundable advance provided by the customer;

301 Essential Services Commission, *Code of Conduct for Marketing Retail Energy in Victoria*, October 2004, clause 7.1, p. 11.

302 Essential Services Commission, *Guideline No. 10 Confidentiality and Informed Consent Electricity and Gas*, May 2002, Clause 5, pp. 8-9. A customer will not be considered capable of giving consent if he or she is not capable of understanding issues, forming views based on reasoned judgement and/or communicating his or her decision. Minors are assumed not to be competent to provide consent unless the retailer can establish that the preconditions to the validity of such a contract are satisfied.

303 Essential Services Commission, *Guideline No. 10 Confidentiality and Informed Consent Electricity and Gas*, May 2002, Clause 6, pp. 9-10.

- A graph showing the customer's energy consumption for the period covered by the bill and, where data is available:
 - The customer's energy consumption for each billing period for the last 12 months; and
 - A comparison of the customer's consumption for the period covered by the bill with the customer's consumption for the same period of the previous year.

This information is designed to allow customers to more easily compare any offers they do receive with their current arrangements.

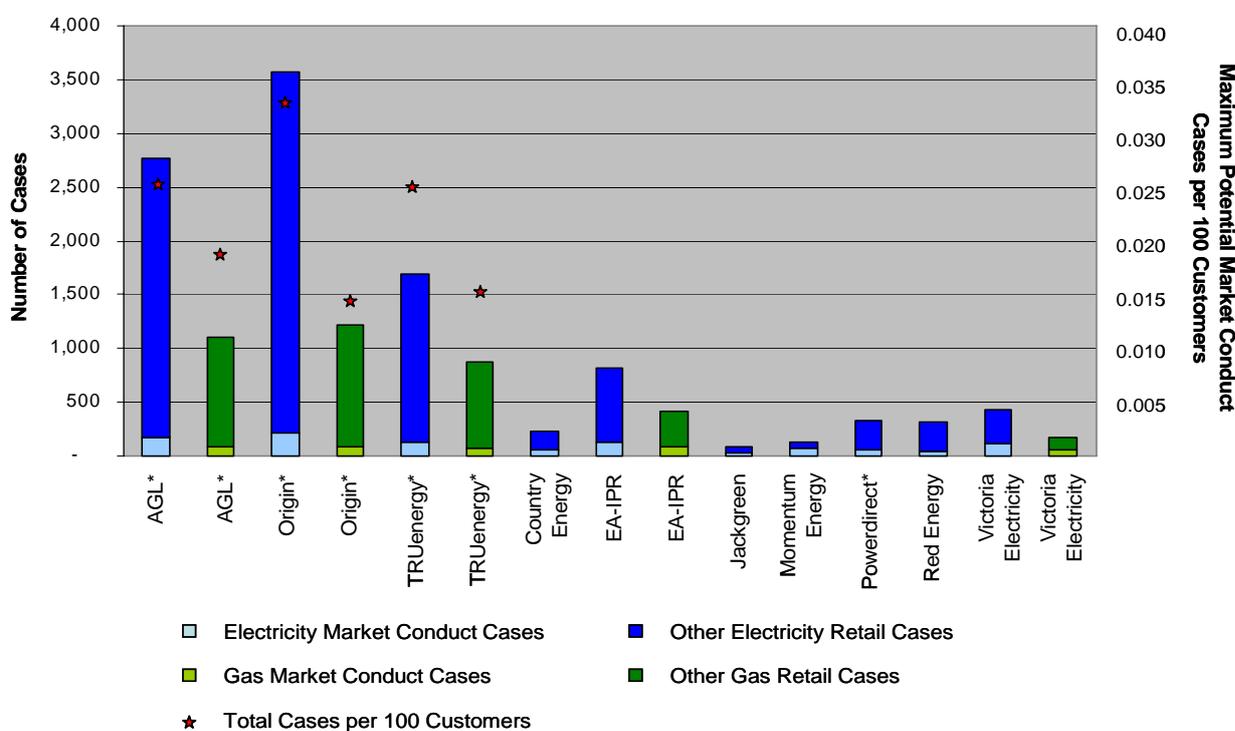
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Appendix D Complaint Data

Figure 1.1 provides a breakdown of market conduct and other complaints by retailer for the 2006 calendar year, as well as the maximum potential number of market conduct cases per 100 customers for host retailers AGL, Origin Energy and TRUenergy.

Note that EWOV did not publish the number of market conduct cases received in relation to AGL, Origin Energy and TRUenergy in Resolutions 22 and 23 as these cases were not the most common type received for these retailers. We have therefore shown the maximum number of market conduct cases that could have been received in relation to these retailers based on the fact that the number of such cases must have been less than the fifth most common case received.

Figure D.1 Marketing and Other Cases Received by EWOV by Retailer, Year ended 31 December 2006



* Maximum number of potential market conduct cases based on EWOV data where actual number of cases not shown
Sources: EWOV Resolution, Issue 22 and 23 and ESC, Energy Retail Business Comparative Performance Report for the 2005-06 Financial Year, November 2006.

As shown in Figure 1.1, market conduct complaints are spread across retailers with no one retailer having more than 300 complaints made in relation to its marketing practices for electricity gas or dual fuel offers. For the first tier retailers, the number of market conduct complaints per 100 customers was below 0.035 (ie, the maximum number of market conduct complaints made in relation to any of these retailers was less than 35 per 10,000 customers for both electricity and gas/dual fuel).

Given the relatively low awareness of EWOV³⁰⁴, the number of complaints made to it may not be truly indicative of the extent to which retailers are engaging in high pressure selling or misleading conduct. Given that most complaints made in relation to such behaviour would be made directly to the retailer concerned, the number of complaints dealt with by retailers may be a better indicator of the extent of such practices.³⁰⁵

Retailers are required to report the number of affordability and other complaints they receive to the ESC as a condition of their licence.³⁰⁶ The ESC assesses this information and publishes a comparative performance report on an annual basis. Data from the Commission's latest performance report suggest that the total number of complaints received by each retailer (excluding those in relation to affordability) for the year ended 30 June 2006 ranged from 0.06 per 100 customers for AGLV to 16.33 per 100 customers for Jackgreen.³⁰⁷ Based on the information published by EWOV, only a small proportion of these are likely to be related to market conduct.³⁰⁸

For all but three retailers, the number of complaints (excluding affordability complaints) has remained below 0.75 per 100 customers for each of the last five years. Both Momentum and Jackgreen have experienced significantly higher complaint rates than other retailers over the last two years although this is partly due to the fact that these two retailers have a substantially smaller customer base than other retailers. EnergyAustralia has also consistently had a higher complaint rate than other retailers, however the retailer has shown a dramatic improvement over the year to 30 June 2006, having reduced its complaint rate from 9.63 to 1.79 per 100 customers.

304 Only 28 per cent of all domestic and 34 per cent of all small business customers that responded to the Commission's survey indicated that they would contact EWOV if they had a reason to make a complaint about their retailer: Wallis Consulting Group, *AEMC Review of Competition in the Gas and Electricity Retail Markets: Consumer Research Report*, October 2007, p. 58.

305 Over two thirds of customers that responded to the customer survey knew to contact their retailer if they had a reason to complain but only about one in three named EWOV. This is about the same percentage as was reported to the ESC in 2004.

306 Essential Services Commission, *Information Specification (Service Performance) for Victorian Energy Retailers*, Decision Paper, June 2005.

307 Essential Services Commission, *Energy Retail Business Comparative Performance report for the 2005-06 financial year*, November 2006, p. 54.

308 See Figure 5.1. Those retailers that provided a breakdown of complaints by type in response to the Commission's retailer survey also indicated that market conduct complaints represented only a small proportion of all complaints received.