

# Notice of final instrument

## AER Retailer of Last Resort Guidelines

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Inquiries about this publication should be addressed to:

Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601  
Email: [aer inquiry@aer.gov.au](mailto:aer inquiry@aer.gov.au)  
Tel: 1300 585 165

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# 1 Executive summary

This notice sets out the AER’s final determination on revisions to the Retailer of Last Resort (RoLR) guidelines and plan, and should be read alongside the final guidelines and plan, and the draft instrument.<sup>1</sup> The updated *Retailer of Last Resort Guidelines and Plan* take effect from 18 June 2026.

The updates reflect recent amendments to the National Energy Retail Law (Retail Law) and focus on a principles-based approach that simplifies processes, clarifies obligations and improves ease of use for stakeholders. We reframed the information to reflect how the RoLR scheme operates in practice in a single, streamlined document.

Key updates to the final guidelines are:

- *Improving the clarity and certainty of cost recovery arrangements*
  - We clarified evidentiary requirements, methodologies and the assessment approach, while maintaining our principles-based approach. We also produced a separate case study on the 2024 Origin Energy cost recovery determination to provide additional practical insights.
- *Allowing up to 72 hours for the AER to designate a RoLR*
  - Based on stakeholder feedback, we refined our approach to maintain the current designation process for gas RoLR events and providing flexibility to apply an extended timeframe for electricity RoLR events. We have also clarified financial responsibilities and that timeframes for distributors and designated RoLRs to take specified action under the RoLR plan start from the day the RoLR notice is issued.
- *Allowing RoLRs to place transferred customers on ‘market retail contract offers’*
  - Stakeholders supported increased flexibility in retail contract arrangements but sought clearer processes and longer timelines in non-urgent circumstances. We responded by extending timeframes, and by clarifying compliance (including the “not worse off” assessment) and notification processes.

We also responded to other feedback by:

- adjusting the language to make it more explicit that relevant RoLR participants, including distributors, will be notified where additional RoLRs are appointed and when we apply the extended timeframe for electricity RoLR events
- further clarifying our expectations for the safe handling of family violence-related information
- confirming that any party that was involved in supplying gas to the failed retailer can be directed to keep providing gas or pipeline capacity to the specified RoLR.

Feedback raised that relates to broader legislative settings or market design has not been addressed through this update.

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<sup>1</sup> National Electricity Retail Rules, r 172(2)(b).

## 2 Our consultation process

The Retail Law enables us to undertake such consultation we consider appropriate prior to preparing the draft RoLR guidelines.<sup>2</sup>

We published the draft determination and proposed guidelines and plan for consultation on 17 March 2026. Consultation was open for 20 business days, with flexible options for stakeholders to provide feedback, including written, verbal and informal responses.<sup>3</sup>

To inform the development of the final guidelines and plan, we sought feedback on key areas, including:

- changing to a single reference document
- improving the clarity and certainty of cost recovery arrangements
- allowing up to 72 hours for the AER to designate a RoLR
- the opportunity to offer designated contracts.

The consultation was promoted via the AER website and LinkedIn, and the consultation documents were provided directly to retailers, distributors, jurisdictional representatives and market bodies.

We received 7 written submissions from AEMO, AGL, Origin Energy, EnergyAustralia, Jemena, SA Power Networks (SAPN), and CitiPower, Powercor and United Energy (CPU), and one verbal submission from Australia Pacific LNG (APLNG). Submissions are published on our website alongside this determination. We also held follow-up discussions with AEMO to better understand its feedback and operational challenges, and discussed the changes with Essential Services Commission Victoria.

In accordance with the retail consultation procedure, this final determination sets out how stakeholder feedback has been considered in finalising the guidelines and plan.<sup>4</sup>

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<sup>2</sup> National Energy Retail Rules, r 173(2)(a).

<sup>3</sup> Ibid, r 173(2)(b)(iii).

<sup>4</sup> Ibid, r 173(3).

## 3 Final decision

The AER has considered stakeholder feedback in developing the final guidelines and plan. This section summarises the key issues raised and sets out the AER's response.

Overall, the stakeholder feedback primarily covered minor clarifications around tightening language, adjusting timeframes and expanding on the AER's intentions. Submissions were broadly supportive of the direction of the changes, including the principles-based approach to guidance and the improvements to clarity and usability of the documents.

Feedback highlighted a need for more practical guidance on cost recovery, including evidentiary expectations, opportunity cost assessment and timeframes, as well as clearer definitions and more flexible application of requirements for designated contracts. Stakeholders also raised issues around notification obligations and the exercise of regulatory discretion, noting the importance of transparent and predictable processes.

Stakeholders generally supported the AER's approach to implementing the extended designation option and the potential use of additional RoLRs. AEMO provided additional feedback on the operational complexity and risk implications in the event of a gas RoLR. Having regard to this feedback, the AER will maintain the current designation timeframes for the gas market. This section further outlines the key issues raised during the consultation and the AER's response.

### 3.1 Changing to a single reference document

We proposed to combine the existing RoLR documents into a single, easy-to-use document that combines the information from the RoLR guidelines, plan and statement of approach.

We sought feedback on the suitability of this approach for stakeholders.

Overall, each of the submissions supported the move to a single reference document. Additionally, AGL requested a marked-up version of the consolidated guidelines to better understand the scope of changes.

As the RoLR guidelines have been substantially revised, a tracked changes version would not provide useful insight. The draft determination released on 18 March 2026 sets out the proposed changes, including updates to RoLR obligations.

For completeness, a tracked changes version between the draft and final revised guidelines and plan has also been published with the final decision and final guidelines and plan.

## 3.2 Improving the clarity and certainty of cost recovery arrangements

The amendments to the Retail Law provided further clarity on the categories of incurred costs that could be recovered by a designated RoLR on or after a RoLR event.<sup>5</sup>

We sought stakeholder feedback on our proposed guidance on the cost recovery application process and the cost recovery template including:

- the usefulness of the proposed cost recovery guidance, including whether further detail should be included in the guidelines and whether additional guidance is needed for gas RoLR events
- whether the changes to the cost recovery template provide sufficient guidance to support a cost recovery application
- the suitability of the proposed approach to consultation on cost recovery determinations
- the appropriateness of the proposed 9-month timeframe for submitting applications
- our proposed approach to applying the cost recovery principles, including the allocation of costs between distributors.

### 3.2.1 Scope and clarity of cost recovery guidance

#### Clarification on opportunity costs

We received stakeholder feedback seeking more detailed guidance on the assessment of opportunity costs, including examples of acceptable methodologies and further clarification on the application of the prudence test. The AER notes stakeholder views that greater clarity in the cost recovery framework should apply consistently across electricity and gas RoLR events. The guidance is intended to apply across both sectors.

The AER acknowledges that it may be appropriate for a designated RoLR to claim opportunity costs and that the assessment of these costs can involve a higher degree of judgement than direct costs. Consistent with the principles-based approach, we have not prescribed specific methodologies or provided worked examples, as the appropriate approach will depend on the circumstances of each RoLR event, including the nature of the costs, market conditions and the information available to the RoLR at the time. It will also depend on the options available to, and taken up by, the RoLR. Additionally, variations in RoLR business models may result in different cost outcomes.

Instead, the guidelines require cost recovery applications to present a clear methodology, supported by sufficient evidence, to enable the AER to assess whether the claimed costs are attributable to the RoLR event and are reasonable.

We have adjusted the drafting in the guidelines to make this expectation clearer.

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<sup>5</sup> s 166(4a) of the Retail Law.

## **Assessment of prudence**

Stakeholders sought greater clarity on how the prudence principle applies in practice, particularly in relation to opportunity costs and the role of hindsight in the AER's assessment.

In applying the prudence principle, the AER will assess decisions based on the information available to the RoLR at the time the relevant decisions were made, including the need to maintain continuity of supply for customers. This assessment will not be based on hindsight, but the nature of the costs, market conditions and the information available to the RoLR at the time of the event, as outlined in the guidelines. We will take into account the options that were available to, and taken up by, the RoLR at the time of the event.

The AER considers that the current guidance, together with the requirement for applicants to clearly explain their methodologies and supporting evidence, provides an appropriate level of flexibility to accommodate a range of potential approaches to recovering opportunity costs.

The AER encourages early conversations about RoLR cost recovery applications and the guidelines have been updated to note we will engage with applicants throughout the assessment process.

### **3.2.2 Changes to the revised cost recovery template**

Stakeholders supported the updated to the revised cost recovery template, including the separation of direct and opportunity costs. AGL's submission requested further information on what the AER is seeking for supporting evidence for a cost recovery claim.

As described in the guidelines, the AER considers that evidence should be proportionate to the claim's size, complexity and impact, and sufficient to verify methodology, attribution and prudence.

Consistent with the principles-based framework, we will assess this by reviewing the applicant's methodologies, supporting documentation and assumptions, including whether sufficient and reliable information demonstrates that the claimed costs were prudently incurred in the event's specific circumstances.

Where evidence is not sufficient to confirm these matters, the AER will discuss with the applicant any additional details needed to support the claim.

As part of this determination, we have included a case study of the Origin cost recovery application to illustrate the types of evidence accepted in that case. Consistent with our principles-based approach, this case study is intended as an example only and applications will be assessed on a case-by-case basis. As this is currently the only example available, we will consider providing further guidance over time, informed by additional cost recovery determinations.

### **3.2.3 Approach to consultation on cost recovery determinations**

We received stakeholder feedback seeking examples of when the AER may consider costs to be "clearly identifiable and quantifiable" such that the AER may shorten or forgo public consultation.

While we expect that public consultation will occur in most cases, we are likely to exercise this discretion where:

- the application involves a limited number of direct, well documented costs
- there is a clear causal link to the RoLR event
- the value of the claim is limited relative to its complexity
- there is minimal reliance on assumptions or allocation methodologies requiring assessment.

These factors will be considered holistically in the assessment. We have amended the guidelines to give this further clarification.

### **3.2.4 Timeframes for submitting and assessing applications**

Stakeholders supported our proposal to maintain the 9-month timeframe for RoLRs to submit cost recovery applications.

Additionally, EnergyAustralia sought greater certainty around the timing of cost recovery determinations, particularly to support financial planning.

While the AER aims to publish a draft determination as soon as practicable, the duration of an assessment will depend on the nature, scale and complexity of the application and the level of consultation required.

The AER will communicate an expected assessment timeframe on receipt of a complete application. For example, shorter timeframes for more straightforward applications and longer timeframes will likely apply where applications are more complex.

These timeframes will be indicative only and do not limit the AER's discretion. Given this variability, we have not specified timeframes in the guidelines.

### **3.2.5 Cost recovery for distributors**

CPU provided feedback noting that, as distributors are required to participate in RoLR events, it is important that an appropriate pathway for cost recovery remains available.

The AER considers that existing regulatory arrangements provide an appropriate framework for distributors to recover efficient costs associated with retailer insolvency events through pass-through mechanisms. This includes the recovery of unpaid or unbilled network charges, as well as other costs incurred or likely to be incurred as a result of a retailer insolvency event.<sup>6</sup> Distributors are able to request credit support where a retailer is falling behind. Further, we anticipate that for RoLR events where the retailer is not insolvent, distributors are able to pursue their debts via standard debt recovery processes. As such, no additional changes have been made in the RoLR guidelines and plan.

SAPN raised broader regulatory concerns regarding the recovery of unpaid network charges in circumstances where a financially responsible market participant is classified by AEMO as

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<sup>6</sup> *National Electricity Rules, Chapter 10 (Glossary), definition of "retailer insolvency costs".*

a market customer, but not an authorised retailer, exits the market but is not covered by the RoLR framework. SAPN noted that, in these cases, distributors may bear financial risk without a clear recovery pathway and suggested this issue could warrant further consideration.

We consider the recovery of unpaid or unbilled network charges, and other associated costs, is governed by the existing regulatory framework, including the National Electricity Rules. To the extent that these arrangements apply, distributors may seek to recover such costs through established pass-through mechanisms. However, the feedback provided by SAPN relates to the broader market and legislative framework, including the definition of a retailer insolvency event, which is both outside of the scope of this consultation and beyond the AER's regulatory remit. SAPN may wish to raise this through broader legislative reform processes, such as rule change requests. As such, no additional changes have been made in the RoLR guidelines and plan.

### **3.3 Allowing up to 72 hours for the AER to designate a RoLR**

Stakeholders provided feedback on the proposed 72-hour designation timeframe, including its potential benefits and unintended risks, which have been considered in developing the final position.

#### **3.3.1 Extended designation period for a gas RoLR event**

AEMO provided feedback that the option to designate multiple gas RoLRs for a distribution system is currently not operationally feasible on their current systems and would require an upgrade.

The AER considers that, based on market projections, there is limited practical value in applying the extended designation timeframe to gas RoLR events given AEMO system costs and broader market trends, such as electrification.

The AER will maintain its current approach for gas RoLR events of designating a single RoLR per distribution system. This reflects the complexity of gas systems and the significant operational and system changes that would be required to support the appointment of additional RoLRs.

We have amended the guidelines to reflect this, providing certainty to AEMO that additional system investment is not required. If necessary, we will revisit this approach in a subsequent review of the guidelines under the retail consultation requirements.

#### **3.3.2 Financial viability considerations**

We received feedback from AEMO that further clarity would help default RoLRs understand their financial obligations should the AER take up the option of a 72-hour extended timeframe to designate a RoLR.

We have adjusted the guidelines to explicitly state that the designated RoLRs will be financially responsible for the customers for that 72-hour period.

We will continue to consult AEMO on matters of financial viability to inform the designation process. We further clarified this in section 2 of the guidelines and in section 2.2 in the plan. As set out in the guidelines, we will consult with AEMO pre-event and during the 72-hour window, where we are considering designating additional RoLRs.

### **3.3.3 Timeframes for implementation**

Stakeholders raised concerns that backdated transfer dates could reduce the effective time available for onboarding and system implementation activities. In amending the plan, we considered the operational complexity with receiving and integrating customer data, particularly in the context of a delayed designation period.

We acknowledge these concerns and that the drafted wording was unclear regarding timeframes and have adjusted to show that the timelines will start from the date the AER issues the RoLR notice, to give flexibility around the circumstances of a RoLR event.

## **3.4 Allowing RoLRs to place transferred customers on ‘market retail contract offers’**

The recent Retail Law reforms allow a registered RoLR to put transferred small customers on a designated contract more akin to a market contract, rather than defaulting them to a standard contract. We sought feedback on our proposed guidance on timeframes for updating designated contracts, the design and effectiveness of designated contract processes, and the clarity of notification requirements and compliance assessment.

Overall, stakeholders provided strong support for increased flexibility and improved customer outcomes, but requested clearer guidance on processes, including suggestions the AER provide more time for RoLRs to update designated contracts with any compliance requirements.

### **3.4.1 Timeframes for updating designated contracts**

Feedback was received on the administrative burden associated with providing a copy of the standard retail contract with each notice of variation. The AER agrees that, where a standard retail contract has not changed, requiring it to be resubmitted with each variation notice may create unnecessary administrative burden.

We have updated the guidelines to state that a copy of the standard retail contract should be provided only where it has changed since the previous notice, with confirmation otherwise that the standard retail contract remains unchanged.

Stakeholders provided feedback that the proposed requirement for resubmission within 5 business days may be too short, particularly when there are ongoing discussions regarding compliance of the designated contract with the Retail Law.

We have clarified that, where changes to the contract are required, the submission timeframe will start from the point at which the last piece of feedback is provided, to allow the RoLR time to respond.

This provides a balance between allowing reasonable time for the registered RoLR to discuss and address any compliance concerns, while ensuring the AER can manage the risk of non-compliant offers published on the registered RoLR's website.

We have also updated the guidelines to allow for up to 10 business days for resubmission of the contract, in non-urgent circumstances, or as otherwise requested by the AER. This increased timeframe aims to help encourage registered RoLRs to consider this option, when possible.

Further to this, the guidelines now give further clarity that urgency for resubmission will be determined by the AER in consultation with the RoLR, factoring in the circumstances such as the likelihood and timing of a potential RoLR event, and the level of risk of a non-compliant offer being made available to customers.

### **3.4.1 Compliance assessment and notification requirements**

Stakeholders sought greater clarity on the sequencing and timing of notification requirements and requested more flexibility in how and when RoLRs notify the AER.

We have clarified the drafting in section 3.2 of the guidelines to better reflect the intended sequencing of notifications, including allowing RoLRs to notify the AER of designated contracts in advance of a RoLR event. We added an introductory sentence for this section, as suggested.

We have considered the timing requirement for informing the AER that customers of the failed retailer have been moved to a designated contract, and agree that some flexibility would be beneficial to the RoLR. We have also amended the requirement in the guidelines to provide notification as soon as practicable, and within 10 business days, to balance the operational demands on RoLRs with the AER's need for timely information.

### **3.4.2 Further clarity on the “not worse off” requirement**

We also received stakeholder feedback seeking further clarity on how the AER will assess whether a customer is “not in a worse position” under section 148A(3)(b), including the relative weight given to a RoLR's explanation and the AER's assessment.

The AER notes that the “not in a worse position” requirement is set out in the Retail Law and does not prescribe one methodology or metric for assessment.

Our assessment will focus on whether, taken as a whole, the designated contract results in not a worse position for customers compared to the standard retail contract.

The AER considers this approach provides sufficient flexibility for RoLRs to structure their explanations, while ensuring the assessment remains consistent with the intent of the Retail Law. This has been adjusted in the guidelines to more clearly reflect this approach.

## **3.5 Decisions on other draft positions**

### **3.5.1 Changes to information flows**

*Information flow for distributors*

CPU noted the importance of timely notification of distributors when 72-hour designation option is being undertaken and when additional RoLRs appointments are made, given their operational role following a RoLR event. The AER has clarified the drafting to confirm that the relevant RoLR participants, including affected distributors, will be proactively notified, where an event is likely or declared.

We agree distributors should be informed where decisions relating to the appointment of additional RoLRs have operational implications. We have also updated the plan to clarify that distributors will be notified.

CPU also provided feedback recommending that distributors be provided with more granular information, including at the National Meter Identifier (NMI) level. The AER notes that customer allocation and transfer information, including NMI level data, is managed through AEMO market systems and procedures. In the NEM, AEMO's RoLR procedures<sup>7</sup> provide information to distributors through the RoLR reporting suite and in gas markets, similar information is provided through existing gas retail market procedures.

Specific operational or system requirements are best addressed through consultation processes on AEMO's RoLR Procedures. As such, the guidelines do not introduce a new obligation for NMI level notifications.

More broadly, we will continue to work with AEMO and relevant stakeholders including distributors to ensure our processes support the effective implementation of RoLR events, including appropriate information flows to distributors.

### ***Customers affected by family violence***

We note the stakeholder feedback raising concerns about the handling of sensitive information for customers impacted by family violence, particularly where this information may be accessed by or transferred to insolvency practitioners.

We acknowledge the highly sensitive nature of family violence impacted customer information, and the safe handling of this information is required to minimise the risk of harm.

We consider it important that this information is transferred directly to the designated RoLR, as the entity responsible for ongoing customer management, to ensure continuity of protections and minimise risks associated with incorrect or unsafe communication. The guidelines already require that, for customers affected by family violence, the failed retailer provide only the customer's preferred method of communication to the RoLR and the RoLR only use that method.

The AER also notes that insolvency practitioners are subject to existing legal and professional obligations in relation to the handling of confidential information. We expect insolvency practitioners to maintain robust systems that control access, use and retention of sensitive information, limit access to authorised personnel, and ensure secure handling and storage.

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<sup>7</sup> AEMO, NEM ROLR Processes (1 December 2025), [www.aemo.com.au/library/procedures](http://www.aemo.com.au/library/procedures).

While insolvency practitioners are not the intended audience of these guidelines, we consider it appropriate to clarify expectations around the safe handling of information for customers affected by family violence where it is accessed or transferred as part of a RoLR event, such as ensuring access is limited to required personnel, and the information is handled securely and retained only for as long as necessary.

Consistent with the principles-based approach, we have not prescribed detailed handling requirements. Instead, we have adjusted the guidelines to emphasise the need for safe handling of family violence-related information, including reference to applicable family violence obligations for customer communications. We will also update the template RoLR notice and cover letter to reflect these expectations.

### ***Hardship payments and Centrepay information***

Stakeholders sought clarity on how hardship and Centrepay information provided by a failed retailer is intended to be used by the designated RoLR, including whether previous arrangements are expected to be assumed or re-established.

The AER acknowledges that hardship and payment arrangements established with a failed retailer cannot be automatically transferred to a designated RoLR. This reflects a range of factors, including differences in retailer hardship programs, potential data quality limitations and the need for customer engagement to establish or update these arrangements.

Consistent with this, the AER does not expect designated RoLRs to assume previous arrangements. Rather, the purpose of providing this information is to support the RoLR's identification of potentially vulnerable customers and enable timely and appropriate engagement. This includes contacting customers to confirm their current circumstances, re-establish hardship and payment plan support where required, and assist customers to re-initiate payment arrangements, such as Centrepay deductions, where it is appropriate.

### **3.5.2 Interpretation of RoLR notice provisions for gas producers**

APLNG raised concerns about the description in the draft plan of entities that may receive a RoLR notice following a RoLR event.

The AER has updated section 2.1.2.1 of the plan to clarify the AER may issue a RoLR notice to a gas producer or any other person that has contracted to sell gas to the failed retailer.

### **3.5.3 Treatment of terminating gas supply contracts**

APLNG asked for clarification on how long obligations to supply gas continue where a contract is transferred to the retailer of last resort but is due to expire shortly thereafter; and what obligations, if any, exist during or following the good-faith negotiation period for a new contract if the original contract expires during that time.

Subsection 137(5) of the Retail Law provides for the supply of gas to the designated RoLR on the same terms and conditions as those set out in the contract under which gas was supplied to the failed retailer. Subsections 137(12) and (13) of the Retail Law set out the arrangements if a gas sale contract continues in force despite the RoLR event, or if it terminates because of the RoLR event. The RoLR scheme is a vital safety net designed to maintain uninterrupted energy supply in the event of a retailer's failure. It is the AER's expectation that all parties would negotiate in good faith in a timely manner.

## Glossary

Term	Definition
Additional RoLR	An energy retailer that has registered with the AER its non-binding commitment to take on customers if another retailer fails.
Backup RoLR	A registered RoLR who may be designated if a default RoLR fails.
Customer	Has the meaning given in s. 5(1) of the Retail Law.
Default RoLR	Has the meaning given in s. 122 of the Retail Law.
Designated RoLR	Has the meaning given in s. 122 of the Retail Law.
Designation criteria	The criteria for the appointment of a registered RoLR as a designated RoLR under s.133(1) of the Retail Law.
Distribution system	Has the meaning given in s. 2(1)(b) of the definition in the Retail Law.
Distributor payment determination	Means a RoLR cost recovery scheme distributor payment determination made in accordance with s. 167(1) of the Retail Law.
Guidelines	The RoLR guidelines (Part A) developed, made and maintained by the AER under s. 135 of the Retail Law.
Hardship policy	Means a customer hardship policy as given in s. 2 of the Retail Law.
Multiple RoLRs	In jurisdictions where there is more than one electricity connection point and/or gas distribution system, there may be multiple default RoLRs, which means multiple RoLRs are designated when a retailer operating in that jurisdiction fails.
Registered RoLR	Has the meaning given in s. 122 of the National Energy Retail Law.
Regulated entity	Has the meaning given in s. 2 of the National Energy Retail Law.
Retail consultation procedure	The procedure prescribed by rule 173 of the Retail Rules.
RoLR cost recovery scheme	The scheme prescribed by s. 166(3) of the Retail Law.
RoLR cost recovery scheme application	An application for a RoLR cost recovery scheme made under s. 166(1) of the Retail Law.
RoLR event	Has the meaning given in s. 122 of the Retail Law.
RoLR register Eol	Has the meaning given in s. 124 of the Retail Law.
RoLR scheme	Has the meaning given in s. 122 of the Retail Law.
Standing instructions	A notice from the AER to AEMO setting out the electricity and gas default RoLRs and the RoLRs in the event of first tier retailer failure.
Transferred customers	Customers of the failed retailer.