

19 August 2011

Mr Tom Leuner
General Manager
Markets
Australian Energy Regulator
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Re: Submission on National Retailer of Last Resort Scheme July 2011

Dear Mr Leuner,

AEMO welcomes the opportunity to provide the following submission on the AER's National Retailer of Last Resort (RoLR) Scheme, July 2011. AEMO is supportive of the AER's objectives of the National RoLR scheme and provides comments regarding the:

- Notice of draft instrument – RoLR Guidelines, RoLR plan and RoLR statement of approach
- Draft – RoLR guidelines
- Draft – RoLR plan
- Draft – RoLR statement of approach

AEMO looks forward to working with the AER and industry to assist where possible in the development and implementation of the National RoLR Scheme.

If you require any further details, please do not hesitate to contact Paul LeFavi, A/Senior Manager, Electricity Retail Market Development on (03) 9609 8341 or by email at paul.lefavi@aemo.com.au .

Yours sincerely



Terry Grimwade
Executive General Manager, Market Performance

Attachment: AEMO Submission AER National Retailer of Last Resort Scheme

AEMO COMMENTS - AER NATIONAL ROLR CONSULTATION PACKAGE JULY 2011

NOTICE OF A DRAFT INSTRUMENT

Significant issues for AEMO

	NOTICE OF A DRAFT INSTRUMENT	AEMO COMMENTS
1	<p>2.2.4 Additional RoLR Framework</p> <p><i>Terms and conditions</i></p> <p>Customer class – Electricity retailers may identify whether they are prepared to serve large or small customers as the designated RoLR.</p> <p>....</p> <p>“In relation to customer class, the AER acknowledges there are differences between electricity jurisdictional consumption thresholds and the thresholds proposed in the National Energy Retail Regulations. For electricity AEMO’s systems currently reflect consumption thresholds based on jurisdictional metrology thresholds. This may produce a disconnect between the NECF classification of small/large customers and the classifications able to be used by AEMO for the purpose of RoLR transfers if different classification levels of small and large apply. The AER will need to consider whether usage of NMI Classification (only present system available) of small/large customers will create any issues with the protection of small/large customers under the broader RoLR framework.”</p>	<p>AEMO’s systems currently reflect consumption thresholds based on metrology thresholds and this will be impacted with NECF implementation.</p> <p>AEMO’s electricity systems utilise NMI classification during RoLR transfers and in subsequent RoLR reports sent to participants.</p> <p>Changing the RoLR processes to integrate the NECF customer classification into market system functionality would be a significant and costly change.</p> <p>Currently, industry participants are working to develop NECF customer classification enhancements to fulfil their NECF obligations. A potential solution may be to store customer classification separate to the current NMI classification in market systems.</p> <p>If this approach is chosen, then all transfers after 1 July 2012, will have the customer classification available to the new retailer.</p> <p>The above process will be available in those jurisdictions that elect to adopt customer classification, and for connection points that have the customer classification populated by the relevant participant.</p> <p>On 1 July 2012, the customer classification is not likely to be available for all connection points.</p>

Minor Comments

	NOTICE OF A DRAFT INSTRUMENT	AEMO COMMENTS
2	<p>Clause 2.2.8 Grouping of customers for the purpose of designation</p> <p>“The AER considers that designation decisions may be made on a TNI basis depending on the circumstances of a RoLR event, for example if it is appropriate to split customers between a number of registered RoLRs to best guard against cascading retailer failures. However the AER also considers in other circumstances that designation in accordance with local retailer areas (e.g. under default RoLR arrangements) or by jurisdictions (e.g. one registered RoLR can take on all customers) may be appropriate. The AER’s designation decisions will be made in consultation with AEMO.”</p>	<p>AEMO supports the AER’s approach to consult AEMO on customer grouping as it allows AEMO to analyse its impact on implementation in market systems.</p>

DRAFT ROLR GUIDELINES

Minor Comments

	DRAFT ROLR GUIDELINES	AEMO COMMENTS
3	<p>2.2.4 Appointment of Multiple RoLRs: Standing instructions</p> <p>“When registering default RoLRs and providing for backup RoLR arrangements, it is unlikely the AER will consider that one retailer be the default/backup RoLR for all connection points and gas distribution systems. Since these RoLRs will be required to take on all size retailer failures, including potentially large new customer bases, the AER is likely, with regard to the RoLR criteria, to register a number of different default RoLRs under s. 125 of the Retail Law. For similar reasons it is also likely to provide standing instructions to AEMO to appoint multiple backup RoLRs should a default RoLR fail. Whilst these arrangements will be aimed at preventing cascading retailer failures for large retailer failures, the application of these arrangements will extend to smaller retailer failures as well.”</p>	<p>GAS</p> <p>The Retail Law is based on a gas RoLR being assigned by gas distribution system area. AEMO’s systems can support this obligation under the Retail Law. AEMO would like to note, that under the standing instructions for designated RoLRs where the default RoLR has failed, the AER has diverged from the ESCV final decision on Geographic Boundaries for Gas Retailers of Last Resort which was published back in September 2008. This decision defined the geographic boundaries for gas RoLR that the gas industry adopted. At the time, VENCORP designed and built its systems based on this decision. If the AER decides to diverge from this current geographical configuration, AEMO will need to make system changes to accommodate any new arrangements.</p> <p>It is also noted that AEMO and Vic industry systems were not built to support a first tier failure and are only able to support the AER back up RoLR approach where the back-up RoLR is based on distribution network area as per the ESCV decision. Consideration of back up scenarios will be raised for discussion at the Gas Retail Consultative Forum. Please refer to the ESCV website for more information on ESCV final decision on Geographic Boundaries for Gas Retailers of Last Resort at was published in September 2008 and the ESV decision Gas Retailers of Last Resort for the Non-Principal Transmission System Areas.</p>

AER DRAFT ROLR PLAN – JULY 2011

Significant Issues for AEMO

AER DRAFT ROLR PLAN JULY 2011		AEMO COMMENTS
4	<p>2.1c Information flows prior to the RoLR event (additional RoLR appointment)</p> <p>“iii) When the AER has formed a belief that a RoLR event may be triggered by AEMO... the AER will notify AEMO if an additional RoLR will be appointed as a designated RoLR within the same period that a retailer is required to respond to a:</p> <p>3) call notice (or a default notice if a call notice was not issued) in accordance with the Electricity Rules 4) margin call (or a default notice if a margin call was not issued) in accordance with the Gas Rules.</p> <p>iv) If the AER does not provide a notice in writing to AEMO before the RoLR event occurs, default RoLRs will be appointed in accordance with the AER’s standing instructions to AEMO.”</p>	<p>To facilitate clear and effective communication between the AEMO Board and the AER, AEMO supports confirmation of the designated RoLRs from the AER:</p> <ul style="list-style-type: none"> • in the case of the NEM, following the issue to a participant of a Call Notice and by the deadline under the NER for the participant’s response to that Call Notice; and • in the case of the STTM or DWGM, upon advice from AEMO that a participant has failed to meet a Margin Call by the required time in accordance with the NGR. <p>AEMO does not support the notification of an additional RoLR beyond the issuance of a Default Notice in the Market. This creates an unworkable arrangement where AEMO is unable to prepare prudential assessments and advise its board members of who the RoLR(s) will be, pending any decision to suspend a participant from the market.</p>
5	<p>2.2b Information flows prior to the RoLR event (Wholesale market)</p> <p>(ii) “AEMO will provide notification to the AER for cl 2.2 (b)(i) 1-4 within two hours or if the event occurs after 5pm, 11am the following business day. Notification will be provided by telephone and any other means deemed necessary.”</p>	<p>The public documentation of these timings raises difficulties for AEMO and will diminish AEMO’s ability to complete the activities required to resolve RoLR issues in the market.</p> <p>AEMO notes that although there are no obligations under the NERL that require AEMO to meet timing requirements as specified in the AER RoLR plan, AEMO does understand the need for these when developing business processes.</p> <p>AEMO in this circumstance supports the development and agreement for process timings, through bilateral arrangements after the current public consultation process has been finalised.</p>

AER DRAFT ROLR PLAN JULY 2011	AEMO COMMENTS
<p>6</p> <p>2.1b AER – Information flows prior to the RoLR event (Wholesale event)</p> <p>“(iii) The AER will provide advice in accordance with cl. 21(b)(i) and 2.1 (b)(ii) via email (telephone or text message or other communication means may also be utilised as considered appropriate).</p> <p>2.2b AEMO – Information flows prior the RoLR event (Wholesale market)</p> <p>(iii) AEMO will provide notification to the AER for cls 2.2 (b)(i) 1-4 within two hours or if the event occurs after 5pm, 11am the following business day. Notification will be provided by telephone and any other means necessary.”</p>	<p>AEMO recommends that email be the main method of communication supported by phone call (or text) follow up, in the case of notifying the AER of margin calls or call notice. AEMO considers that notification by email is a suitable approach.</p>

Minor Comments

AER DRAFT ROLR PLAN JULY 2011		AEMO COMMENTS
7	<p>2.1b AER - Information flows prior to the RoLR event (Wholesale event)</p> <p>(ii)” If the AER receives notification of an event outlined in cl 2.1 (b)(i), the AER may advise registered RoLRs, distributors and ombudsman schemes that it has received notification but it should not disclose to them the name of the retailer.”</p>	<p>AEMO recognises the AERs powers to investigate circumstance or matters that it has reason to believe may or will affect a participant’s ability to continue in the market. AEMO however is concerned about the broad sharing of information under this division that may lead to or in fact be the unintended factor in triggering a RoLR event. AEMO believes the need to limit the extent of information shared across the market and participants to avoid the creation of a false perception that may result in a consequential failure of a participant.</p>
8	<p>7.1 AER RoLR notice</p> <p>Retailer of Last Resort (RoLR) notice</p> <p>Issued by the Australian Energy Regulator in accordance with section 136 of the National Energy Retail Law</p> <p>Date [Date of RoLR event]</p> <p>Details of RoLR event</p> <p>[Events or circumstances giving rise to the RoLR event]</p>	<p>In the case of Gas, AEMO recommends that the template in 7.1 outlines the markets that have been affected, to minimise confusion.</p>
9	<p>2.1e RoLR Exercises</p> <p>With the assistance of AEMO, the AER will organise RoLR exercises.</p> <p>2.2d RoLR Exercises</p> <p>AEMO will assist the AER to organise and implement RoLR exercises.</p>	<p>AEMO notes the AER’s obligations in NECF to conduct RoLR exercises.</p> <p>AEMO is supportive of the AER’s role in organising and conducting RoLR exercises and will provide input where required and appropriate.</p> <p>AEMO recommends that these desktop style exercises be held every 12 months across both fuels and include all default RoLRs, potential RoLRs, distributors and other relevant participants.</p>

AER DRAFT ROLR PLAN JULY 2011	AEMO COMMENTS
<p>6 RoLR Exercises</p> <p>6.1 Purpose</p> <p>RoLR exercises will be conducted by the AER and AEMO to ensure RoLR plan participants have the necessary systems and process in place to undertake their responsibilities during a RoLR event</p>	

ROLR STATEMENT OF APPROACH

Significant Issues for AEMO

	STATEMENT OF APPROACH JULY 2011	AEMO COMMENTS
10	<p>3.4 Additional RoLRs</p> <p>“...the AER must notify AEMO of the additional RoLRs appointment as a designated RoLR before the day on which customers are transferred. As a result, the scope of the AER to appoint an additional RoLR as a designated RoLR may be limited where the AER is given little notice of a RoLR event.</p> <p>The AER has developed measures that will assist the selection process for the designated RoLRs. This includes establishing... a firm offer category and a non-firm offer category.”</p>	<p>As noted in <i>Comment 4 in the AER Draft RoLR Plan</i> section, AEMO requires certainty about additional RoLRs from the AER and does not support the notification of additional RoLRs beyond the issuance of a Default Notice in the Market.</p>
11	<p>4.3 Information Flows</p> <p>Figure 4.2 RoLR Information Flows</p> <p><i>Up to 48 hours notice (short notice)</i></p> <p>1. “Review customer information of failing retailer provided by AEMO in accordance with the AEMO-AER information protocol.</p> <p>4. Provide AEMO with a notice in writing under s132(2) if default RoLR/backup RoLR arrangements are to be replaced.”</p> <p><i>Short Notice</i></p> <p>“With short notice the AER would use information obtained from AEMO in accordance with AEMO-AER information protocols to provide the AER with information at the time of an event as to:</p> <p>-the number of customers affected and/or the load</p>	<p>AEMO is able to provide the AER information about current prudential limits if required, however AEMO notes this information may not provide an accurate assessment if the market is experiencing significant volatility. In regards to potential RoLR appointments, AEMO can provide some information about the retailer regarding a forecasted value of the prudential limits needed for taking on new customers. However there may be some constraints, including timeframes, with providing this data.</p> <p>AEMO wishes to note that it cannot evaluate a retailer’s ability to absorb the new customer load, as not all of the relevant financial information of a retailer is available to AEMO. Also, a RoLR event causes market stress and this can also impact on the accuracy of AEMO’s prudential assessments.</p> <p>AEMO recommends the AER also utilise the information in the retailer’s EOI along with AEMO’s prudential information (if required) to make an informed decision about appointing a registered RoLR instead of a default RoLR.</p>

STATEMENT OF APPROACH JULY 2011	AEMO COMMENTS
<p>-the geographic location of the customers or load affected</p> <p>-AEMO's current prudential limits for registered RoLRs and their ability to absorb the new customer load.</p> <p>If a RoLR appointment was likely to result in a retailer needing further credit (on the advice of AEMO), the AER would endeavour to satisfy itself that the retailer could secure the extra credit before appointing it as a RoLR."</p>	

Minor Comments

STATEMENT OF APPROACH JULY 2011	AEMO COMMENTS
<p>12 3.3 Default RoLRs</p> <p>"Default RoLRs are required to take on customers for electricity connection points and gas distribution systems they are registered against in the absence of other instructions from the AER to AEMO before a RoLR event.</p> <p><i>Standing Instructions to AEMO</i></p> <p>The AER will provide details of the default RoLR arrangements to AEMO as part of its standing instruction. The standing instructions will inform AEMO which retailers are the default RoLRs and when they should be appointed as the designated RoLRs should a retailer fail."</p>	<p>AEMO requires clarification on the Standing Instructions and Default RoLRs, particularly during the transition stage to NECF. It would be helpful to understand which jurisdictions will have RoLRs appointed from "Day One" of NECF commencement and which jurisdictions will carry over current default RoLR arrangements. AEMO would also prefer if this information could be made available as soon as possible prior to 1 July 2012.</p>
<p>13 3.7 Backup RoLRs</p> <p>"Backup RoLR arrangements are required in the event of the failure of a default RoLR(s). Since only one default RoLR can be appointed to an electricity</p>	<p>AEMO would prefer that Standing Instructions for backup RoLRs be developed as soon as possible. (Please refer to <i>Comment 12 in the Statement of Approach</i> section for further details).</p>

STATEMENT OF APPROACH JULY 2011		AEMO COMMENTS
	<p>connection point or gas distribution system, it is necessary to provide an immediate instruction which AEMO can implement should the default RoLR itself fail. Therefore, the AER will need to consider default RoLR failure scenarios in advance and advise AEMO which remaining default RoLRs/additional RoLRs are to be appointed.</p> <p><i>Standing Instructions to AEMO</i> The AER's standing instructions to AEMO will direct AEMO to transfer customers to one or more of the remaining default RoLR(s) or registered additional RoLRs."</p>	
14	<p>4.3 Information Flows</p> <p>Figure 4.2 RoLR Information Flows</p> <p><i>Longer notice (use of contingency event powers)</i></p> <p>"In addition to considering information from AEMO, where there is longer notice of a RoLR event, the AER may consider requesting information from the failed retailer and may sound out all registered RoLRs (including those in the non-firm category). The AER's contingency event powers under the Retail Law enable the AER to seek more information from a retailer where it thinks there are circumstances affecting that retailer which might lead to a RoLR event. The purpose of these provisions is to allow the AER, AEMO and other participants to potentially be informed earlier of a RoLR event. Powers extend to the AER being able to advise registered RoLRs of retailer information to assist with expressing interest in being a RoLR."</p>	<p>The lead up to a RoLR event is likely to cause market stress, and in these circumstances, AEMO advises using caution when disclosing information to market participants about a potential failed retailer or RoLR event.</p> <p>As per the clause regarding Protected Information in Section 54 of the <i>National Electricity Law</i> and the definition of Confidential Information in Chapter 10 of the <i>National Electricity Rules</i>, AEMO is bound by confidentiality requirements about the way it treats certain information.</p> <p>When AEMO is required to provide the AER with information prior to a RoLR event, AEMO expects the AER follow these confidentiality conditions.</p>