

22 December 2010

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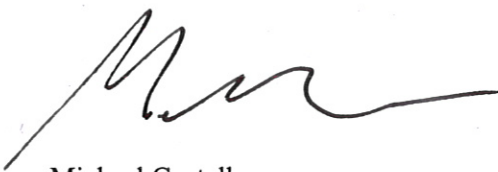
Dear Mr Leuner

ActewAGL response to AER RoLR plan development, registrations and appointments and cost recovery scheme issues papers

Thank you for the opportunity to comment on the proposed Retailer of Last Resort Scheme to be administered by the Australian Energy Regulator as part of its responsibility for enforcing the National Energy Retail Law and National Energy Retail Rules under the National Energy Customer Framework. ActewAGL's comments on the proposed scheme are provided in an attachment to this letter.

Should you require further information on issues discussed in this submission, please contact Ian Male, Deputy General Counsel, on (02) 6248 3485.

Yours sincerely



Michael Costello
Chief Executive Officer

Let's power ahead.

Retailer of Last Resort Scheme

Overarching comments on proposed RoLR scheme

1. Overall, ActewAGL does not have significant concerns with the scheme proposed by the AER. ActewAGL notes, however, that it is highly prescriptive and may be unnecessarily complex. Notwithstanding potential time constraints, some parts of the scheme will be best assessed at the time a RoLR event takes place.

RoLR plan development

2. Provisions should be made for a cost pass through for distributors required to maintain back-up customer data.
3. The ESCV's existing RoLR plan should be checked for appropriateness and value of content rather than choosing it on the basis that it is the most comprehensive.
4. Either the distributor or AEMO could be effective and appropriate data custodians. It could be an effective check to reconcile both AEMO and distributor data in a RoLR event to check integrity of data. ActewAGL Distribution would like to encourage the use of the distributor as the data custodian.
5. There should be regular transfer of customer data from retailers to a data custodian as a protection measure and risk management control. Depending on the scale of failure of a retailer this may be crucial.
6. ActewAGL does not believe that there should be different communication strategies for small and large retailers (for example, a customer is not more or less likely to listen to a radio ad on the basis of their retailer size). Regardless of the size of the retailer, appropriate communication channels should be utilised for that audience, at that time, depending on the nature of the event. Every effort should be made to notify and inform the affected community and provide them with any information that is needed.
7. ActewAGL also does not agree that 'if media provides coverage of the event as part of the general news, it may not be necessary for the AER to place advertisements.'¹ Allowing for only journalistic communication may result in mistruths, inadequate or inaccurate reporting of information and may not contain all of the necessary information. The AER should communicate directly with the affected community as appropriate.
8. There is no need to determine in advance exactly how many communications a customer should receive from designated RoLRs. The communication should be determined based on the particular event. When communicating with customers, there should always be an independent source of further information for customers who have concerns or issues with the process around a RoLR event. If anything, there should be specific and minimum information requirements to be communicated to customers, not a minimum number of communications.
9. If there are effective guidelines and procedures in place then the AER should review the value in undertaking timely and potentially expensive exercises to simulate what would occur in a RoLR event. It may be that there is no need to schedule these exercises in advance. Regular smaller audits of how the process would work may be more effective.

RoLR Registrations and appointments

10. Q2 Ability for default RoLR's to compete with additional RoLR's
11. Q4 RoLR registration criteria (how different are they to now?)
12. Q7 how often the AER should call for EOI for default RoLR registration
13. Q8 Areas of registration
14. Q9 current jurisdictional RoLRs be registered as default RoLRs in the short term
15. Q13 support two categories from additional RoLR registration

¹ AER, Issues Paper RoLR plan development, p17

16. Q17 extra conditions that default RoLRs might attach to their registrations
17. Q21 Full disclosure of registration conditions
18. Q22 Three year review of default RoLRs

ROLR cost recovery scheme

19. Q3 Restriction on time to apply for a cost recovery scheme
20. Q8 Likely sources of preparation costs for a default RoLR
21. Q11 Likely sources of incremental costs for a RoLR
22. Q14 Should they consider benefits that may accrue to a RoLR
23. Q15 Limits on costs that can be recovered?
24. Q18 Cost recovery mechanism
25. The AER should not place limits on the magnitude, time frame of classes of costs to be recovered in the event of a RoLR. Instead, costs should be assessed on the basis of their merit and appropriateness as defined by the Retail Law.
26. ActewAGL does not believe that any of the mechanisms for recovering costs identified in the issues paper are preferable. It is unsatisfactory that customers of a particular jurisdiction, retailer or distributor, bear the costs of a RoLR event. It would be preferable to develop a mechanism where the cost of a RoLR event is spread across the national market. Development of the national insurance scheme could be considered as an option.
27. ActewAGL notes that the paper “does not address the recovery of any unpaid network charges from a failed retailer to a distributor.”² ActewAGL understands that these costs are to be provided for under separate pass through (with a suitable low pass through threshold) arrangements for the recovery of unpaid network charges under the National Electricity Rules and National Gas Rules.
28. However, ActewAGL is concerned that the proposed RoLR cost pass through provisions do not currently allow for the pass through of distributor direct costs associated with a RoLR event.
29. Distributors can incur significant costs in a RoLR event and should be able to recover these costs.
30. ActewAGL is also concerned that there is no cost recovery scheme for costs incurred by the distributor for upfront and planning costs. The distributor will potentially be required to maintain back-up customer data and participate in planning events.

² AER, *Retailer of last resort cost recovery scheme Issues Paper*, November 2010, p 2.