

22 December 2010

Tom Leuner
General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3000

Email: AERInquiry@aer.gov.au

Dear Mr Leuner,

Re: Retailer of Last Resort cost recovery scheme issues papers

We refer to the following Issues Papers released by the Australian Energy Regulator (**AER**) in November 2010 regarding:

1. Retailer of Last Resort (**ROLR**) Cost Recovery Scheme;
2. ROLR Plan Development; and
3. ROLR Registrations and Appointments;

(collectively the **Issues Papers**).

Citipower and Powercor (**the Businesses**) appreciate the opportunity to comment on the Issues Papers and make the following submissions for the Commission's consideration.

ROLR Cost Recovery Scheme

The Businesses refer to the AER's proposed principles for assessing ROLR cost recovery schemes detailed in section 4.2 and note that these principles reflect those developed by the Essential Services Commission (**ESC**) in *Energy Retailer of Last Resort – Final Decision*, February 2006 (**ESC Final Decision**).

However, the AER have omitted one of the factors listed in the ESC Final Decision, where it was determined by the ESC that it would take into consideration an approach which "protect[s] the financial flows within the energy industry and takes account of reasonable risks and costs associated with the provision of ROLR services".¹ This principle has not been adopted under the AER's ROLR Cost Recovery Scheme.

¹ See page 3 of the ESC Final Decision.

It is unclear why the AER have sought to omit such an important factor, as the inclusion of this factor would serve to assure stakeholders in the energy industry that they would not be penalised for the failure of a retailer. The Businesses believe this factor should be included and seek clarification as to why this factor, adopted by the ESC, is not adopted in the ROLR Cost Recovery Scheme.

The Businesses also note the AER's proposal to impose a regime whereby distributors make payments to the ROLR for the costs of the ROLR scheme. Distributors would then recover these payments from all retailers through network charges under the pass through provisions of clause 6.6 of the *National Electricity Rules (the Rules)*. The Businesses note that clause 6.6 of the Rules, read in conjunction with the amendment proposed in the *National Electricity (Retail Support) Amendment Rules 2010 (the Amendment Rule)*, would impose a materiality threshold on such pass through events.

The Businesses object to the imposition of a materiality threshold, particularly since ROLR payments would be unlikely to meet the threshold requirement in any given year. The Businesses advise that such an approach would prevent distributors from recovering ROLR payments and would therefore be contrary to the revenue and pricing principles under section 7 of the *National Electricity Law*, which provides that a distributor should be provided the opportunity to recover its efficient costs. The Businesses note that the proposed arrangement would also be inconsistent with the approach proposed for unpaid network charges, which are not subject to a materiality threshold under the Amendment Rule.

ROLR Registrations and Appointments

The Businesses accept the AER's ROLR registration criteria set out in section 4.1.1. The Businesses seek to emphasise the importance of taking into consideration the financial resources of a ROLR to ensure that a RoLR event does not result in cascading retailer failure due to the additional financial stresses of RoLR responsibilities at a time when the energy market may be under stress.

If you have any questions, please contact me on (03) 9683 4282.

Yours sincerely



Rolf Herrmann
MANAGER REGULATION