

22 December 2010

Tom Leuner  
General Manager  
Markets Branch  
Australian Energy Regulator  
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AERInquiry@aer.gov.au



Dear Mr Leuner

**Retailer of Last Resort Issues Papers – November 2010**

ENERGEX Limited (ENERGEX) is pleased to provide the following comments on the AER's issues papers relating to establishing the national Retailer of Last Resort (RoLR) scheme. As the electricity distributor in South East Queensland, ENERGEX's responses are provided in the context of the impact on a distribution business.

Responses to the specific questions raised in each of the issues papers are provided in the following attachments:

- Attachment A – Retailer of last resort cost recovery scheme; and
- Attachment B – Retailer of last resort plan development.

In relation to the issues paper 'Retailer of last resort registrations and appointments' ENERGEX does not have any specific comments at this time.

If the AER requires further information please contact Naomi Donohue, Regulatory Analysis and Projects Manager, on (07) 3664 4101.

Yours Sincerely

A handwritten signature in black ink, appearing to read "L. Dwyer", is written over the typed name.

Louise Dwyer  
Group Manager Regulatory Affairs

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## Appendix A: Retailer of last resort cost recovery scheme

*Q2. Are there any additional factors that the AER should consider?*

- The approach should not compromise the financial position of distributors. Linking approval of RoLR recovery amounts to the approval for distributor recovery of RoLR payments (i.e. automatic approval for distributor to recover payments of approved recovery amounts to RoLRs) would:
  - provide greater regulatory certainty for distributors;
  - minimise administration costs and time delays; and
  - ensure distributors are not placed under additional financial and administrative pressure given they will most likely be undergoing a separate process to recover unpaid network costs.
- ENERGEX understands that Section 167(4) (a) of the National Energy Retail Law (South Australia) Bill 2010 provides for the automatic amendment of a distributors determination to allow for the recovery of payments made under a RoLR scheme. This process should be encouraged in relation to payments the distributor is obligated to make under the national RoLR scheme as this would reduce the administration requirements on the AER and distributor that would normally be associated with the pass through process under the National Electricity Rules (NER).
- The AER should also consider that distributors currently have no guarantee that they would be able to recover payments made under the RoLR scheme due to materiality thresholds associated with pass through provisions in the NER.

*Q3. Should the AER place restrictions in the RoLR guidelines on the time within which a RoLR may apply for a RoLR cost recovery scheme?*

- ENERGEX considers a reasonable time limit should be set for a RoLR to apply for cost recovery. This would help reduce uncertainty for the RoLR, distributors that have to pay the RoLR recovery amount, and customers who will be impacted by price increases.

*Q4. If so, what is an appropriate time limit for an application for post event costs following a RoLR event?*

- A reasonable time should be provided for the preparation of cost data and submission to the AER for cost recovery.

*Q5. What is an appropriate time limit for an application from a default RoLR for preparation costs?*

- As per question 4.

*Q6. What information should be included in an application for a RoLR cost recovery scheme?*

- ENERGEX considers it would be useful if a list of distributors that may be impacted was included in the RoLR information. This would assist distributors to be aware of their potential obligations.

*Q8. What are likely sources of preparation costs for a default RoLR?*

- An important source of preparation costs is that of industry testing. Consideration needs to be given to the inclusion of other participants testing costs in the RoLR cost recovery plan.

*Q9. What factors do you consider will affect the magnitude of preparation costs incurred by a default RoLR?*

- The size and type of the default RoLR's customer base in comparison to failed retailers transferred customers.

*Q10. What principles should be considered when separating costs incurred in preparing for a RoLR event from costs associated with the retailer's business as usual operations?*

- Clear distinction between BAU benefits and RoLR capability resulting from incurring preparation costs for a RoLR event.

*Q12. What factors do you consider will affect the magnitude of the incremental costs incurred by a RoLR at the time of or following a RoLR event?*

- From a distributors point of view the timing of the RoLR event will impact on the costs incurred.

*Q13. In what circumstances are the incremental costs incurred after a RoLR event likely to be significant?*

- As per question 12.

*Q14. Should the AER consider the benefits that may accrue to a RoLR following a retailer failure? If so, what methods can the RoLR and the AER adopt to quantify these benefits?*

- ENERGEX agrees consideration should be given to the benefits and where appropriate a value should be placed on these benefits.

*Q15. What limits should the AER consider placing on the RoLR costs that can be recovered?*

- The AER should apply normal regulatory processes in relation to the consideration of costs when determining the efficiency and prudence of costs.

*Q16. Should the AER consider placing a limit on the magnitude of the costs that a RoLR may recover (beyond the limit in the Retail Law that the costs must be 'reasonable')? If yes, what methods should the AER employ to set this limit?*

- As per question 15.

*Q17. Should the period over which a RoLR can incur retail operating or wholesale costs be limited? If so, what is an appropriate limit?*

- The period over which costs can be incurred needs to ensure the RoLR cost recovery process is completed within a reasonable time period.

*Q18. Are there any particular problems or difficulties with the cost recovery mechanisms discussed above?*

- From a distributors point of view this framework does not consider the recovery of costs that a distributor will incur in a RoLR event.

*Q21. For a distribution network tariff variation, what are the relevant considerations when determining which distributor should make payments to the retailer?*

- Section 87FB of the Queensland Electricity Regulation 2006 provides for the payment of the RoLR recovery amount by either single or multiple distributors.
- Where the failed retailer has customers connected to multiple distributors, payment of the RoLR cost recovery amount will be apportioned to distributors on the basis of their share of the total number of the failed retailers customers connected to their network.

*Q22. If more than one distributor is required to make payments towards the costs of the scheme, how should the costs be divided between each of the distributors?*

- As per question 21.

## Appendix B: Retailer of last resort plan development

*Q1. Is it appropriate that the AER draw on ESCV's existing RoLR plan as the starting point for the AER's RoLR plan? Please set out your reasons why / why not.*

- Provided consideration is given to jurisdictional differences and there is further public consultation, ENERGEX considers it appropriate for the AER to utilise work already undertaken by the industry, including AEMO's NEM RoLR processes.

*Q4. Should all retailers in the participating jurisdiction be included as RoLR plan participants? Please set out your reasons why / why not?*

- All retailers should be included as RoLR plan participants to ensure they are aware of the processes, procedures and events that need to occur in the event of a retailer failure, regardless of whether or not they are directly involved in a RoLR event. All participants should understand what is happening in the market. However, consideration should be given to the relevant participants potential involvement in a RoLR event and appropriate testing cycles.

*Q6. Are there any other parties that should be included by the AER as RoLR plan participants? If so, who?*

- The RoLR plan needs to include all participants that could potentially be impacted by a RoLR event (i.e. distributors). Inclusion of various market participants will ensure greater understanding of the processes and procedures to be followed should a RoLR event occur.
- The RoLR plan should not place obligations on various plan participants prior to consideration of both costs and benefits.

*Q7. Should arrangements be made for the regular transfer of customer data from retailers to a data custodian? If so, who should act as the data custodian?*

- Transfer of data should only occur if the industry is confident that benefits are going to outweigh the costs of transferring, checking and storing data.
- Data capture and storage by distributors is not appropriate given the information requirements of retailers compared to distributors (i.e. payment and credit arrangements).
- If data transfer is to occur the issue of data confidentiality and the costs of storage and data transfer need to be considered when selecting an appropriate data custodian.

*Q8. What is the appropriate mechanism to provide for the regular transfer of customer data?*

- If data transfer is deemed necessary, inclusion of the requirement in the RoLR plan would be appropriate (provided all relevant participants are consulted).

*Q9. Do stakeholders have comments on the communication strategies proposed for the lead-up to a RoLR event or the timeframes proposed in Appendix A?*

- ENERGEX seeks clarification on the difference between the timeframe 'without delay' and 'as soon as possible'?
- Processes should align to AEMO RoLR procedures.

*Q12. Is there any other information that should be provided to the wider community?*

- Information on where a list of alternative retailers can be found; and
- Confirmation that the provision of electricity to affected customers will not be negatively impacted.

*Q15. Do you agree with the proposed information requirements for the failed retailer? Please set out your reasons why / why not?*

- Timeframe for the contact centre message and website should be reduced to 24 hours or 'without delay' / 'as soon as possible' to avoid and / or limit customer concern caused by a lack of knowledge.

*Q16. Do you agree that customers who were in the process of transferring to the failed retailer should be informed of the cancellation by the retailer they are returning to or by another party? Does this represent a significant cost burden for these retailers?*

- ENERGEX considers it appropriate for retailers to communicate with customers on these issues.

*Q21. What other information requirements should the RoLR plan include to inform the failed retailer and/or insolvency officials about their RoLR obligations?*

- The plan should provide a contact list detailing the appropriate party to be contacted for the provision of information during a RoLR event.

*Q25. In addition to the RoLR notice, by what means should the AER inform the RoLRs and distributors of their RoLR obligations?*

- RoLR plan should provide participants with information regarding their obligations in a RoLR event.
- AER email update reminding participants to review their roles and obligations in a RoLR event whenever a RoLR event is anticipated to occur.
- A RoLR contact is nominated for each market participant on the B2B contacts list; this person should be contacted.

*Q27. Should the RoLR plan require the designated RoLR(s) to provide any information to the AER?*

- Relevant RoLR plan participants should be required to inform the AER when major processes (i.e. customer data transfer) are completed.

*Q28. Are there any issues that need to be considered by AER and AEMO when it conducts its preliminary planning for the RoLR exercises?*

- Consideration of traditionally busy periods in the market including AEMO system updates which will most likely necessitate participants to make system changes; and
- The extent of exercise or particular focus of an exercise.

*Q29. How often should exercises be conducted and what form should they take (e.g. desk-top or system transactions)?*

- The extent and depth of exercise will impact frequency. Small focused exercises would impact less on participants and therefore allow for more frequent and continual testing. However a more comprehensive test might provide greater assurance the market could cope with a large retailer failure.

*Q30. Are there particular information requirements and systems procedures that the exercises should focus on / not focus on?*

- Exercises should focus on minimising any physical impact on electricity supply to customers during an actual RoLR event.