



22 December 2010

General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Dear Sir/Madam

Retailer of Last Resort Scheme – Issues Papers for Consultation

Envestra is Australia's largest distributor of natural gas, delivering to over one million customers in all mainland states other than Western Australia. Consequently Envestra is a major participant in the supply of energy to Australian homes and is in a position to comment on the Retailer of Last Resort ("RoLR") scheme proposed under the National Energy Customer Framework ("NECF").

Envestra's submission includes responses to all three issues papers released by the Australian Energy Regulator ("AER") concerning RoLR plans, registration and appointments and the cost recovery scheme and is set out in the pages below.

Of these three issues, the greatest concern for Envestra is that the AER's proposed framework and processes for the cost recovery scheme does not adequately address cost recovery for distributors. Envestra acknowledges that this paper is intended for retailers, however distributors must also adequately prepare for and respond to a RoLR event. Preparations and responses may require modifications to IT systems and business processes and/or additional labour, which collectively, can result in significant costs to distributors.

As the law currently stands, distributors would have to recover preparatory costs (to allow for future RoLR events) on existing pass through triggers and Envestra does not believe this is an efficient or suitable industry-wide method of recovery.

Envestra thus requests that the AER give due consideration to these distributor issues before finalising an approach to obligations under the RoLR scheme.

Envestra welcomes the opportunity to be involved in these matters and looks forward to participating in future stakeholder consultations.

If you have any queries on this submission please contact me on (08) 8418 1128.

Yours sincerely

Ralph Mignone
Manager, Engineering & Technical Regulation

Envestra Ltd

RoLR Plan Development
November 2010

Submission to
Australian Energy Regulator

Issues for consideration

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.

Q2. Are there any other matters which should be included in or excluded from the AER's RoLR plan which are not/are presently included in the present Victorian RoLR plan?

Q3. Are there areas of commonality between the RoLR plan and RoLR procedures that need to be considered in the development of the RoLR plan? And if so, what are they?

The Victorian gas ROLR plan was developed in conjunction with market participants. The plan provides for clear guidance on communications and actions in time leading up to a ROLR event and subsequent transaction processing requirements.

Envestra considers the use of the ESCV's RoLR manual as a template for the RoLR plan is a sound commencement basis for the development of a national RoLR approach for the gas industry. The AER needs to be cognisant of issues and risks associated with differing market rules and market conditions that may impact on a national RoLR approach. This includes consideration of issues across jurisdictions but also differences between the gas and electricity industries.

Envestra is concerned that the issue of preparatory and subsequent costs for distributors has not been adequately addressed in any of the three RoLR issues papers released by the AER for public consultation. As a gas distributor with operations in four different states, Envestra considers it will incur insignificant costs in system modifications to ready itself for a ROLR event. Further analysis will need to be undertaken to quantify the magnitude of these costs once the national ROLR plans and requirements are more defined.

While the RoLR plan and the RoLR procedures regulate different aspects of the RoLR process, there needs to be a high level of commonality between the two. As a basic fundamental principle there should be consistency and alignment between the RoLR plan and RoLR procedures. At a minimum these documents should have the following aspects attached to them:

- They should be clear and specific communication requirements to affected parties and timeframes and data requirements; and
- The documents should be version controlled and available via the AER and AEMO websites to ensure the current version is readily available for all market participants to review.

Envestra agrees that the AER and AEMO will need to work together to ensure the RoLR plan and RoLR procedures are consistent, and that AEMO should identify any potential areas of overlap between the two regulatory instruments when the RoLR plan is developed, as well as any potentially conflicting requirements. Any areas of potentially conflicting requirements need to be considered and addressed in the RoLR plan.

Issues for consideration

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

Q5. Do you agree with ombudsmen being included as RoLR plan participants? Please set out your reasons why/why not?

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

All retailers in participating jurisdictions should be included as RoLR plan participants. There may also be a requirement for non-local retailers to be incorporated into the RoLR plan as there are instances where a network has a single retailer contract, e.g. Mildura. While the risk of these retailers failing may be small, a comprehensive RoLR plan should cater for these situations.

Inclusion of all retailers within the affected jurisdiction will ensure uniformity and transparency of information. Envestra considers the ombudsman a critical participant in a RoLR event and concurs with the inclusion of them as a RoLR plan participant.

Issues for consideration

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?

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

The question of who should act as a data custodian is an important question for the energy industry. In the gas market a distributor maintains a range of MORN information, such as MORN standing data and meter read history. However, there are many components of data that a distributor is not privy to which will be important for a retailer in a RoLR event, such as customer names, contact details, financial circumstances etc. In Victoria, the ESCV's RoLR plan requires second-tier electricity retailers to transfer a copy of their data set to the relevant distributor once a month. Upon a RoLR event, these data custodians are required to provide the relevant customer data sets to the RoLRs.

Envestra considers that the data custodian should be the market operator, which is able to request the relevant details from the failed retailer or relevant distributor. There should be regular transfers of customer data to a data custodian, but Envestra would like to understand what frequency the AER considers to be 'regular' and what information will be required to be supplied by which market participant before it can make an informed judgement on the appropriate mechanism for transfer of customer data. Currently in Victoria all second tier retailers provide data to AEMO on a monthly basis.

Envestra believes that while a distributor is able to provide customer data sets to the RoLR these data sets will not contain commercial aspects of the customer that are in place or experienced by the failed retailer such as whether customers are participating in hardship programs or have installment arrangements.

Issues for consideration

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?

Envestra has no comment on this issue.

Issues for consideration

Q10. Do you agree with the measures proposed to communicate with the affected community? Please set out your reasons why/why not.

Q11. Financial counsellors, members of parliament and migrant resource centres have been identified as potential information conduits during a RoLR event. Are there any other information conduits that may be used?

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

Envestra has no comment on this issue.

Issues for consideration

Q13. Are the information requirements that are specified for affected small customers adequate? If not, what additional information needs to be provided to the affected small customers?

Q14. Do you agree with the proposed frequency and content of communications between the RoLR and its customers? Please set out your reasons why/why not?

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

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?

Q17. What other measures should the RoLR plan require to ensure the accessibility of information during a RoLR event?

Envestra has no firm position on the frequency or content of the communications to small customers other than to state that the communication should be clear and concise and should seek to address any and all concerns that affected customers will have. Any confusion will only add to causing customer uncertainty that could create additional workloads for retailer and distributor call centres.

Issues for consideration

Q18. Are there any other information requirements for large affected customers that have not been discussed?

Envestra has no comment on this issue.

Issues for consideration

Q19. Are there any other measures that need to be established in the RoLR plan to ensure Ministers and departmental officers are informed about the RoLR event? If so, what are they?

Envestra has no comment on this issue.

Issues for consideration

Q20. What sorts of information processes should there be between the ombudsman, RoLR and failed retailer or insolvency official following a RoLR event? What should the information include?

Envestra has no comment on this issue.

Issues for consideration

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

Envestra has no comment on this issue.

Issues for consideration

Q22. Is there any other information AEMO should provide the AER (or the AER provide AEMO) after a RoLR event?

Q23. Are the customer notification processes set out in the ESCV's RoLR manual adequate? If not, what additions or changes should be made?

Q24. Are there other channels of communication that the RoLR plan should specify?

Envestra has no comment on this issue.

Issues for consideration

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

Q26. Should the RoLR plan require any other information to be provided to these parties?

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

The RoLR plan will need to set out how the affected distributors and other service providers will be informed of the RoLR event and their RoLR-related obligations, including finalising service orders and facilitating actual meter readings where possible. The specifics about what data processes need to occur and the timeframes for this information should be contained in the relevant jurisdictional rules and procedures rather than via a RoLR notice.

Issues for consideration

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

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

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

Envestra considers the RoLR exercises need to be planned with sufficient lead time for participants to have resources made available to assist with completion. For a multi-jurisdictional distributor these exercises are likely to be reasonably onerous. The AER should consider a jurisdictional approach to undertaking RoLR exercises.

The frequency of these exercises need to be considered against the benefits of undertaking them. Envestra considers the exercises should focus on communication and information requirements, with the transactions focusing on the bulk transfer aspect of customers rather than 'close out' of 'in flight transactions' as an example.

The move to a national adoption of NECF is still uncertain and any transitional period requirements will need to be factored into the preparation for and participation in RoLR exercises.

RoLR Registrations and Appointments
November 2010

Submission to
Australian Energy Regulator

Issues for consideration

Q1. Stakeholders' comments are sought on the objectives that should guide the development of the RoLR registration and appointments processes. Are the objectives identified in the paper appropriate? Are there others that should be included?

Envestra considers the objectives of the RoLR regime to be reasonable and sufficient to guide the development of the RoLR registration and appointment process. The objective of protecting consumer interests through competition in the RoLR appointment process must be assessed against the risk of cascading RoLR events should the participant not be able to meet the additional workloads. The RoLR plan and appointment process should be not unduly costly to administer.

The appointment of multiple RoLRs should be considered against the objectives of simplicity and costs. Envestra considers the appointment of multiple RoLRs will increase the risk with in-flight transactions and potential confusion with end customers and market participants with regards to which customer is transferred to which RoLR.

Issues for consideration

Q2. Stakeholders' views are sought on the extent to which the ability of default RoLRs to compete against additional RoLRs might be limited under the Retail Law.

Q3. Stakeholders are asked to identify any other constraints on RoLR registrations and appointments.

Envestra has no comment on this.

Issues for consideration

Q4. Stakeholders' comments are sought on the matters the AER should consider in relation to the RoLR criteria, namely:

- organisational and technical capacity
- the financial resources test
- suitability.

Q5. Noting the AER's requirement to consider the RoLR criteria when registering RoLRs, comments are sought on the relative importance of each of these criteria and, in the case of suitability, the sub-criteria within that criterion.

Q6. Stakeholders' comments are sought on any other matters the AER should include in the RoLR criteria.

Envestra agrees that these are all relevant and important criteria that warrant consideration in the AERs determination of a suitable RoLR. Envestra considers financial resourcing to be the most critical of the criteria as the industry will not want to run the risk of cascading

failures within the market. Cascading failures would create additional market uncertainty and increase workloads all around through customer confusion.

It is also critical for the RoLR to have sufficient organisational and technical capacity to deal with a RoLR event in an efficient and effective manner. The interaction between the market participants needs to be managed expeditiously with each participant, while accepting of their requirements and outputs, and able to meet the deliverables within the agreed timeframes.

Issues for consideration

Q7. Stakeholders' comments are sought on:

- how often the AER should call for EoIs for default RoLR registration;
- incidents that should trigger a review of default RoLR arrangements, such as significant mergers or acquisitions.

The AER intends to seek EoIs for RoLR registration (default and additional) as and when state and territory jurisdictions adopt the national RoLR scheme. The AER is concerned that a regular turnover of default RoLRs would increase the overall cost of the RoLR scheme. Therefore, the AER's preliminary view is that the default RoLR registrations should be fixed for a number of years. The AER notes that there will be circumstances when default RoLR arrangements might need to be reviewed, for example if the default RoLR itself fails or if there is a merger or acquisition in the market.

Envestra concurs that there should be minimum defined periods for RoLR registration in order to minimise costs, and these should be cognisant of registration criteria and any significant market impacts that could impact on a RoLRs capacity to meet their market obligations.

Issues for consideration

Q8. Stakeholders' views are sought on whether they prefer default electricity RoLRs to be registered on the basis of TNI, local retailer area or jurisdiction (or another approach)?

Envestra has no comment on this issue.

Issues for consideration

Q9. Should current jurisdictional RoLRs be registered as default RoLRs in first start jurisdictions in the short-term? Please set out your reasons why/why not.

Q10. Stakeholders' views are sought on the length of the initial term of registration of default RoLRs in first start jurisdictions.

Q11. The AER is interested in hearing from any party wishing to express interest in being a default RoLR for the commencement of the NECF.

Q12. Stakeholders' views are sought on whether they prefer additional electricity RoLRs to be registered on the basis of TNI, local retailer area or jurisdiction (or another approach)?

Envestra supports a national rollout date for the RoLR scheme with clear guidelines on what arrangements will be grandfathered at its commencement. Envestra supports the view that

current jurisdictional RoLRs be registered as default RoLRs in first start jurisdictions at the commencement of the national RoLR scheme and for such time until the timeframe for registration of RoLRs requires new Eols to be submitted and considered.

Issues for consideration

Q13. Do stakeholders support the two categories proposed for additional RoLR registration? Please set out your reasons why/why not.

Q14. Should there be any other categories for additional RoLR registration?

Q15. How long should a firm offer apply?

Q16. How should firm offers be re-submitted to the AER?

The AER expects that retailers that make a firm commitment will want to review this commitment periodically. The AER therefore intends to call for Eols from retailers that want to register as additional RoLRs with a firm offer every three months. Any current offers will also need to be re-affirmed or re-made at the end of that period. The AER intends to seek Eols for additional RoLRs with non-firm offers less frequently, say every two years, as these offers are indicative rather than binding.

To reduce the administrative burden for retailers the AER supports a simple process where firm offers are re-affirmed or varied, for example, by way of a standard form application or exchange of letters. Although Eols may be lodged with the AER at any time, realistically, it is unlikely that the AER will be able to consider an Eol for RoLR registration immediately before a RoLR event.

Envestra supports the AER's view that RoLR offers be via a simple process with standard form applications or the exchange of letters.

Issues for consideration

Q17. Are there any conditions that default RoLRs might propose to attach to their registrations?

Q18. Do stakeholders agree with the extra conditions proposed for the registration of additional RoLRs? Please set out your reasons why/why not.

Q19. Stakeholders' views are sought on the extent to which the proposed conditions for additional RoLR registration should be limited in order to simplify comparison at the time of an event.

Q20. Are there any other conditions that additional RoLRs would seek to attach to their registration?

Customers or classes of customers—A retailer may wish to specify whether they are prepared to accept small or large customers, or a combination of both, if appointed RoLR. There are many retailers who market to only one particular class of customer. The AER has noted that a retailer who has only small customers is unlikely to have the financial and systems capacities to take on large customers following a RoLR event. This situation would lead to multiple RoLRs.

Envestra considers that the objectives of making the RoLR process:

- not unduly costly to administer; and
- able to be implemented quickly and simply

should be overriding provisions. The banding of customer numbers and choice of customer classes to different RoLRs adds a significant amount of risk of error and confusion during a RoLR event. This is therefore contrary to the specified objectives. Envestra supports a default RoLR position for each jurisdiction.

Envestra agrees with the AER's proposed terms and conditions for additional RoLRs to limit or mitigate any risk of cascading RoLR events.

Issues for consideration

Q21. Please identify any problems with the full disclosure of registration conditions and indicate whether it would influence your decision to seek additional RoLR registration?

The Retail Law requires the AER to maintain and publish on its website a register of RoLRs. The register of RoLRs must include particulars of the RoLRs registered, and must indicate whether the retailer is registered as a default RoLR (including for which connection points or distribution system) or as an additional RoLR.

Envestra supports the publication of this data as it provides clear information on who will/may be the designated RoLR each jurisdiction. Full disclosure will assist other participants to flag potential issues as they arise rather than discovering at the time of an event that there is an issue with the RoLR's terms.

Issues for consideration

Q22. Do stakeholders agree with the proposed three year review period for default RoLRs? Please set out your reasons why/why not.

Q23. What circumstances or events should require the AER to review the registration of a default RoLR?

Q24. Do stakeholders agree with the proposed two year review period for additional RoLRs with non-firm offers?

Envestra agrees with the proposals, given that the AER can review the registration of a default RoLR at any time if there were any material changes to the retailer's ability to act as a RoLR.

Issues for consideration

Q25. Stakeholders' comments are sought on the relative importance that the AER should place on the:

- RoLR criteria
- RoLR cost recovery
- the imminence of the RoLR event in determining RoLR appointments.

Q26. Stakeholders' comments are sought on what other matters the AER should consider when determining RoLR appointments and their importance relative to other criteria including:

- event management
- promotion of competition.

Envestra reiterates its position that a RoLR event should meet the objectives of being simple and clear from an implementation perspective, with minimal administrative impact on market participants.

Envestra seeks clarification on distributor cost recoveries for preparatory work and costs associated with a RoLR event. It should be noted by the AER that significant effort may be required to change Envestra's IT systems and processes to be able to manage the requirements of a RoLR event in states other than Victoria. It should also be noted that the Victorian RoLR manual and build requirements were built around a RoLR event of less than 100,000 customers across the three distribution areas.

Issues for consideration

Q27. Stakeholders' views are sought on the weight the AER should give to:

- (a) lower RoLR event costs
- (b) eventmanagement
- (c) long term competition
- (d) any other matters

when considering RoLR appointments.

Q28. If a RoLR appointment were to result in a retailer needing further credit, what information should satisfy the AER that the retailer is able to secure further credit?

What is an appropriate length of time for the retailer to secure any additional credit (bearing in mind the AER's need to make a decision promptly)?

Q29. Is the information proposed to be sourced from AEMO adequate for retailers to submit an EoI for RoLR appointment? Please set out your reasons why/why not.

Q30. To help the AER make appointment decisions, what sort of information should the AER seek:

- (a) from retailers lodging an EoI
- (b) from failing retailers under contingency events?

Q31. Is the time proposed for retailers to respond to a request for EoIs adequate? Please set out your reasons why/ why not.

Envestra has no comment on this issue.

Issues for consideration

Q32. In which situations are multiple RoLR appointments necessary and/ or desirable?

Q33. In the case of large retailer failures, what sorts of factors might require multiple RoLR appointments?

Envestra agrees there should be no scope for appointing multiple gas RoLRs as gas RoLRs can only be registered by distribution system. Further to this Envestra considers the appointment of multiple RoLRs is fraught with risk of misinformation and confusion in an already volatile market situation.

Envestra questions the capacity of non-tier 1 retailers to be able to cater for situations with a large retailer failure. We point out that the Victorian RoLR provisions were not designed to cater for large retailer failures.

Issues for consideration

Q34. Should Victoria's arrangements for local retailer failures be used as a template for default RoLR failure under the national RoLR scheme? Please set out reasons why/why not.

Envestra concurs that in Victoria for gas, the RoLR areas are defined by the distribution zones. Each distribution area has two local retailers; therefore, if one of these retailers fails, the other local retailer in the failed retailer's distribution zone would be appointed RoLR. While this may be appropriate for Victoria, it may not be elsewhere. Envestra agrees with the AER's proposal to develop back-up arrangements for other states and territories using Victoria's arrangements as a template, but allowing for any differences in jurisdictional needs.

Issues for consideration

Q35. Stakeholders' views are sought on how the AER should use its powers under section 137 of the Retail Law including:

- (a) when the AER should make a direction for gas?
- (b) any circumstances in which the AER might amend (or revoke) a direction?
- (c) any consequences from the AER amending (or revoking) a direction?
- (d) any other implementation issues arising from section 137?

As appears to be the intent of the Law, the AER should only use its powers in the event that the distributor and the RoLR cannot agree on any new or modified terms, i.e. where there is a clear failure of commercial negotiation.

Retailer of Last Resort Cost Recovery Scheme
November 2010

Submission to
Australian Energy Regulator

Issues for consideration

Q1. Are the factors listed above appropriate?

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

Section 166 of the Retail Law provides that a RoLR cost recovery scheme is designed to allow a RoLR to recover:

- in the case of a default RoLR only—costs incurred in preparing for RoLR events, and
- in the case of a designated RoLR (default and additional) —costs incurred on and after a RoLR event, including:
 - costs paid to an insolvency official of a failed retailer in respect of anything done under the RoLR scheme provisions of the Retail Law, and
 - costs paid to a distributor by the RoLR for service orders and not recoverable from the customers concerned or from the failed retailer.

The AER considers that the following factors are likely to be important when assessing a RoLR's application for a cost recovery scheme:

- The approach should be as simple as possible and practical to implement. The approach should minimise administrative costs and ideally be able to be implemented using existing systems.
- Ideally the approach should be consistent across jurisdictions and between electricity and gas, however it should also be sufficiently flexible to respond to the wide range of circumstances that may apply at the time of a retailer failure.
- The approach should not compromise the financial position of the RoLR and should aim to minimise the risks of the RoLR itself defaulting.
- Ideally the approach should provide relatively stable and fair prices for RoLR customers and should insulate small customers from volatility in wholesale prices.
- Ideally the approach should provide an incentive for the RoLR to minimise its costs.
- The approach should provide regulatory certainty by facilitating transparent and robust decision making.

Envestra is concerned that the AER has not shown any recognition of the costs that distributors will incur in preparing their IT systems for a RoLR event. All commentary discussed relates to the RoLR's costs and recovery thereof.

Issues for consideration

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?

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

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

The RoLR cost recovery scheme should have time frames attached to it. These time frames should be sufficient to enable the market participants to determine their event costs with accuracy and certainty.

Envestra again raises its concerns with the AER's view that only RoLRs will incur costs prior to and during a RoLR event. Affected distributors will be required to modify systems and business processes to meet the timeframes and data processing outputs prescribed within the RoLR plan. These aspects must be considered as part of AER's consideration of the RoLR cost recovery scheme.

Issues for consideration

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

Q7. What form should the information in a RoLR cost recovery be presented in?

The AER is interested in what information regarding costs is readily available to a registered RoLR and could be provided to the AER to support an application for a RoLR cost recovery scheme. For example, a default RoLR might consider including market-based quotes for the scope of works to justify its proposed preparation costs as reasonable. Alternatively, if the work is proposed to be undertaken by a related party, the RoLR might consider providing historical unit-rate analysis that shows the costs are reasonable and/or cost reflective of industry standards.

Envestra considers this preamble to be confusing and ill informed. The costs incurred prior to a RoLR event are most likely to be for IT system changes to facilitate the generation of meter reads and bulk customer transfers in the event of a RoLR situation arising. Work of this nature would not readily fall within the ambit of previous historic unit-rate analysis.

Cost estimates can be determined once the parameters and data processing requirements are more defined. Prior to this Envestra could only commit to providing high level estimates, subject to change, upon further information that enables it to assess the costs associated with meeting the defined RoLR requirements.

The AER is also interested in stakeholders' views on what form information in a RoLR cost recovery application should be presented. For example, a cover sheet outlining essential summary information may assist interested parties to quickly identify the nature and content of the application. The application may attach more detailed analysis of the costs to support the application and outline any other relevant matters.

Envestra supports an approach that allows for publication of high level information but which does not compromise confidential information or information which is not necessary to place in the public domain.

Issues for consideration

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

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

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?

A default RoLR may incur costs associated with its legal obligation to act as a RoLR (even if a RoLR event does not occur). These costs could include one-off costs associated with establishing the RoLR scheme. Examples might include, implementing processes to accommodate the potential transfer of a large number of customers and adapting IT capability to accommodate additional customer information.

The AER understands that many of the existing state based RoLR cost recovery schemes have not provided a mechanism for RoLRs to recover upfront preparation costs. In their advice to the MCE, NERA and AAR noted that the majority of stakeholders considered that the up-front costs associated with being appointed a RoLR would be minimal, as the retailers' billing systems would be capable of handling the additional customers that would be transferred to them following a retailer failure.

Envestra reiterates its position that throughout all RoLR Issues Papers distributed for comment, there is no recognition of preparatory work required to be undertaken by distributors. Envestra considers it would have to incur potentially significant costs in adapting its IT systems to be able to generate bulk volume "estimated" reads and process these as "actual" reads through to one or several recipient RoLRs. Yet, there is no mechanism for a distributor to recover these costs under the cost recovery issues paper. This means that distributors must rely on their existing or proposed cost pass-through arrangements. This should be avoided since it gives rise to regulatory uncertainty.

Issues for consideration

Q11. What are the likely sources of incremental costs for a RoLR at the time of or following 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?

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

There will be incremental costs for the distributor during a RoLR event resulting from the manual handling of in-flight requests and transactions. The magnitude of these costs is likely to be impacted by the size of the failed retailer and the customer base they had at time of failure and the number of RoLRs designated during the RoLR event.

Issues for consideration

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?

Envestra has no comment on this issue.

Issues for consideration

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

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?

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 AER contends there is arguably very little incentive for the RoLR to minimise its costs up to and during the RoLR period, particularly where it is expected that the RoLR's actual costs will be recovered through the RoLR cost recovery scheme. However the AER notes that under the Retail Law a RoLR is only entitled to recover its 'reasonable costs', rather than its actual costs. The risk that the AER will determine that particular costs are not reasonable should provide sufficient discipline on a RoLR to ensure that it minimises its costs.

Envestra disputes the inference from the AER that market participants may not undertake the process and act prudently leading up and during a RoLR event. Envestra also considers the determination of what are 'reasonable costs' to be a subjective interpretation which must be considered on a case by case basis. Envestra recommends the development of a dispute mechanism to cater for instances where the AER and RoLR disagree on whether the actual RoLR costs reflect what the AER deems to be reasonable.

Issues for consideration

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

Q19. Are there any other appropriate cost recovery mechanisms?

Q20. What is the most appropriate cost recovery mechanism for each class of cost that a RoLR may recover?

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

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 mentioned previously, the AER should elaborate on a cost recovery mechanism for distributors, in regards to both the preparation for RoLR events and in response to an event. It is preferable not to rely on various different mechanisms contained in distributors' access arrangements or other regulatory arrangements. Such an outcome would not represent efficient regulation and expose distributors to regulatory uncertainty.

Under the distribution network tariff variation cost recovery mechanism identified by the AER the distributor makes payments to the RoLR to allow the RoLR to recover its costs. (We note this is a separate process to that set out in section 531 of the National Gas (Retail Support) Amendment Rules, which pertains to recover of the gas distributor's costs only, subsequent to an event). The distributor then recovers these payments from all customers by varying its distribution network tariffs. The distribution network tariffs are varied under clause 6.6 of the National Electricity Rules or approved pass throughs under the gas access arrangements.

A distribution network tariff variation allows the costs of the RoLR event to be recovered from a much broader customer base, so the burden of cost recovery experienced by individual customers is much smaller. The distribution network tariff variation may also provide the RoLR with an improved ability to recover all of its costs as it does not only recover costs from customers of the failed retailer.

The AER has recognised there are a number of challenges associated with this approach. The recovery of costs through this mechanism is likely to take the longest time compared to the other cost recovery mechanisms and may not be as administratively simple as an upfront fee.

Further, retail operations typically extend across the boundaries of different distribution networks and jurisdictions. Therefore it is not immediately clear which or how many distributors will be expected to pay RoLR related costs. In the simplest scenario, a RoLR event is confined to one jurisdiction, to one retailer and to one distributor. In this case it is arguable that identifying the distributor that must make payments towards the cost recovery scheme is straight-forward. However, as demonstrated by the Energy One and Jackgreen events, a RoLR event may affect customers that extend across boundaries of distribution systems and across jurisdictions. To minimise administrative costs, the AER has suggested only one distributor should make payments towards the cost recovery scheme.

Envestra considers this RoLR recovery approach to be overly burdensome to a distributor through administrative cost and effort as well as financial implications of payments in advance of recoveries. Envestra considers the allocation of all costs to one distributor may present an unacceptable financial burden for that distributor. Hence Envestra believes that flexibility should be retained to involve more than one distributor, depending on the circumstances.