



Ref.: CP/AC

22 December 2010

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

61 Mary Street  
Brisbane QLD 4000  
PO Box 15107  
City East QLD 4002  
Phone 07 3228 8222  
Fax 07 3228 8118  
Website [www.ergon.com.au](http://www.ergon.com.au)

Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

Dear Mr Leuner

## Submission on the AER's Retailer of Last Resort Scheme

Ergon Energy Corporation Limited and Ergon Energy Queensland Pty Ltd collectively referred to as Ergon Energy; welcome the opportunity to provide responses to selected questions to the Australian Energy Regulator's (AER) following Issues Papers:

- RoLR plan development;
- RoLR Registrations and Appointments; and
- Retailer of last resort cost recovery scheme.

Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to me on (07) 4121 9545 if you have any questions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carmel Price'.

**Carmel Price**  
Group Manager Regulatory Affairs

Telephone: (07) 4121 9545  
Email: [carmel.price@ergon.com.au](mailto:carmel.price@ergon.com.au)

Encl: Ergon Energy's submission.

**Ergon Energy Corporation Limited and  
Ergon Energy Queensland Pty Ltd**

**Retailer of last resort cost recovery scheme Issues Paper**

**Retailer of last resort registrations and appointments Issues Paper**

**Retailer of last resort plan development Issues Paper**

**– Submission**

**Australian Energy Regulator**

**22 December 2010**

# **Retailer of Last Resort – Submission**

## **Australian Energy Regulator**

**22 December 2010**

This submission, which is available for publication, is made by:

Ergon Energy Corporation Limited

PO Box 15107

City East

BRISBANE QLD 4002

Enquiries or further communication should be directed to:

Carmel Price

Group Manager Regulatory Affairs

Ergon Energy Corporation Limited

Email: [carmel.price@ergon.com.au](mailto:carmel.price@ergon.com.au)

Ph: (07) 41219545

Mobile: 0408702 814

Fax: (07) 4123 1124



# TABLE OF CONTENTS

<b>1</b>	<b>Overview .....</b>	<b>3</b>
<b>2</b>	<b>Ergon Energy Responses .....</b>	<b>5</b>
2.1	RoLR Plan Development Issues Paper .....	5
2.2	RoLR Registrations and Appointment Issues Paper .....	7
2.3	Retailer of last resort cost recovery scheme issues Paper.....	8

# 1 Overview

Ergon Energy supports the development of a nationally consistent framework for the management of customer transfers and data in the event of retailer default. Increased clarity regarding participant obligations in circumstances of a retailer of last resort (RoLR) event is a positive step that supports the integrity of the National Energy Market (NEM).

Ergon Energy's main concern is in relation to the potential cost exposure imposed on distributors and the lack of specificity around how RoLR Cost Recovery Scheme payments are intended to be recovered by distributors.

Ergon Energy is of the view that there needs to be greater clarity and regulatory certainty provided to distributors, to ensure that they are able to fully and efficiently recover payments it is obliged to make under a RoLR Cost Recover Scheme. Ergon Energy is concerned that the AER has not sufficiently assessed the implications of existing Distribution Determinations, or current cost pass through provisions in the National Electricity Rules (NER).

For example, Ergon Energy believes that when considering the following together:

- the AER's RoLR Cost Recovery Scheme;
- clause 6.6 of the National Electricity Rules (NER); and
- AER's Final Decision Queensland Distribution Determination 2011-11 to 2014-15 (the Final Distribution Determination),

an unintended outcome may occur. That is, if Ergon Energy cannot recover the RoLR costs because it does not meet the materiality threshold, then, distributors are financially disadvantaged for an event that is outside their control.

To provide more detail, Ergon Energy notes that

- the AER at page 9 of the *Retailer of last resort cost recovery scheme – Issues Paper*, states that  
*as part of its determination on the RoLR cost recovery scheme that the distributor's determination .....are then taken to be amended so that any payments the distributor makes to the RoLR are taken to be .....in the cast of electricity – positive pass through amounts approved under clause 6.6 of the National Electricity Rules.....*
- Then, the AER, in the Final Distribution Determination did not allow ENERGEX to nominate a "retailer failure event" as an additional nominated pass through event. In determining whether to accept a distributor's proposed pass through event, the AER divided pass through events into 2 categories: specific nominated pass through events and general nominated pass through events. The key difference between the 2 categories is the materiality threshold. The AER approved additional pass through events are:
  - smart meter event;
  - CPRS event;
  - feed-in tariff event; and
  - general nominated pass through event.

Therefore, Ergon Energy must apply to the AER for the recovery of RoLR costs as a general nominated pass through event. The AER defined a general nominated pass through event in the Final Determination at page 311<sup>1</sup>. Given the definition and the AER's rationale in the Final Distribution Determination, Ergon Energy is concerned that if the materiality threshold is not met then how does a distributor recover the costs for an event that is outside its control.

Ergon Energy considers it paramount that the AER give more thought to the requirements under Chapter 6 of the NER to provide distributors with regulatory certainty. Ergon Energy also considers that it would be beneficial for the AER to further assess the implications of existing Distribution Determinations, and whether or not a positive pass through amount approved under clause 6.6 of the NER is the most effective and efficient cost recovery mechanism for a distributor to recover payments under a RoLR Cost Recovery Scheme.

The AER has approved Ergon Energy's annual revenue requirements for the next 5 years, and if the RoLR costs are not fully recoverable then distributors will lose out. Ergon Energy repeats its concerns raised in our earlier submission<sup>2</sup>, as distributors are subject to a detailed set of procedures for determining appropriate Annual Revenue Requirements, allocating costs and recovering monies, it is necessary that any general right to recover costs incurred under the RoLR scheme is accompanied by a sufficiently detailed explanation of:

- the extent and nature of those costs which can be the subject of cost recovery by a distributor (i.e. being those amounts paid under the RoLR cost recovery scheme distributor payment determination);
- how the relevant distribution determination is to be amended to incorporate an allowance for these costs;
- the timeframe over which the distributor is permitted to recover those costs;
- how these costs are to be applied to existing categories under the distribution determination, which will need to be consistent with the relevant structure in Chapter 6 of the NER;
- how these costs are to be passed through to (presumably) retailers (Ergon Energy suggests that this be done by designating these costs as an approved cost pass through amount under the distribution determination, exempted from the requirement to meet any materiality thresholds); and
- how retailers are to pass through these costs to customers, or any class of such customers.

<sup>1</sup> A general nominated pass through event occurs in the following circumstances:

1. An uncontrollable and unexpected event occurs during the next regulatory control period, the effect of which could not have been prevented or mitigated by prudent operation risk management.
2. The change in costs of providing distribution services as a result of the event is material.
3. The event does not fall into any of the following definitions:  
'regulatory change event' in the NER (read as if paragraph (a) of the definition was not part of the definition)  
'service standard event' in the NER  
'tax change event' in the NER 'terrorism event' in the NER  
'smart meter event' in this decision  
'CPRS event' in this decision 'feed-in tariff event' in this decision.

For the purposes of this definition, 'material' means the costs associated with the event would exceed 1 per cent of the smoothed revenue allowance specified in this decision in each of the years of the regulatory control period that the costs are incurred.

<sup>2</sup> Refer to pg 8 of Ergon Energy's submission to the MCE on the 2<sup>nd</sup> Exposure Draft NECF,

<http://www.ret.gov.au/Documents/mce/emr/rpwg/necf2-submissions.html>



## 2 Ergon Energy Responses

### 2.1 RoLR Plan Development Issues Paper

Question	Ergon Energy Response
<p>1. 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.</p>	<p>Ergon Energy considers that the AER should align the development of a RoLR plan as much with AEMO's NEM ROLR Processes document. This is because it well recognised and understood by all market participants. Ergon Energy does not see value in dovetailing off a procedure that has been developed for a specific jurisdiction has been value demonstrated to warrant</p> <p>Noting that a RoLR plan is a plan for "<i>the procedures to be followed by participants in the event of a RoLR event, including direct communications with customers of a failed retailer and regular exercises to be carried out by the participants in the plan</i>", Ergon Energy considers that AEMO's document adequately meets the requirements of the NERL.</p>
<p>4. Should all retailers in the participating jurisdiction be included as RoLR plan participants? Please set out your reasons why / why not?</p>	<p>Ergon Energy sees value in participants participating in simulated RoLR events, however given that the actual involvement of retailers and distributors is unknown in terms of capacity and time required, it is difficult to comment. The ongoing costs to comply with this requirement are unknown and Ergon Energy does not see benefit in mandating that all retailers be included as RoLR plan participants. Ergon Energy recommends that consideration be given for retailers to be involved on a rotational basis.</p>
<p>7. 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?</p>	<p>Ergon Energy recommends that AEMO be the data custodian not the distributor.</p>
<p>9. Do stakeholders have comments on the communication strategies proposed</p>	<p>The strategies and timeframes proposed should align with AEMO's NEM RoLR</p>

for the lead-up to a RoLR event or the timeframes proposed in Appendix A?	Procedures and Process Final Determination.
10. 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?	There should be sufficient flexibility in the RoLR plan to allow each jurisdiction to determine whether affected small customers information requirements may need to be amended to take into account jurisdictional differences.
16. 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?	Ergon Energy does not see any benefit in notifying customers who are in the process of transferring to failed retailer, that, that retailer has failed. A customer's involvement should be kept to overall notification process rather than individual. The costs associated with notifying individual customers of this could be significant especially in a market of increased customer churn and a large retailer fails.
17. Are there any other information requirements for large affected customers that have not been discussed?	A major issue for large customers that they would be interested in knowing is their potential exposure to pool prices in the event that their retailer failed.



## 2.2 RoLR Registrations and Appointment Issues Paper

Question	Ergon Energy Response
<p>7. Stakeholders' comments are sought on:</p> <ul style="list-style-type: none"> <li>• how often the AER should call for EoIs for default RoLR registration;</li> <li>• incidents that should trigger a review of default RoLR arrangements, such as significant mergers or acquisitions.</li> </ul>	<p>Ergon Energy does not support the idea of having EoI's for registered RoLRs.</p>
<p>8. 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)?</p>	<p>Ergon Energy supports that default RoLRs are registered on the basis of local retail area. This is because it is easier to manage from an operational point of view and it is much clearer identifying the RoLR for the NMI.</p>
<p>9. 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.</p>	<p>Ergon Energy supports the AER's policy to register existing jurisdictional default RoLRs as the default RoLR under the NECF. This is because most of the existing default RoLRs are well established procedurally, technically and financially to handle the transfer of customers from a defaulting retailer.</p>
<p>22. Do stakeholders agree with the proposed three year review period for default RoLRs? Please set out your reasons why / why not.</p>	<p>In contemplation of a proposed 3 year review period for registered default retailers, Ergon Energy considers it important to note that most businesses would require a 12 month lead time to change.</p>
<p>23. What circumstances or events should require the AER to review the registration of a default RoLR?</p>	<p>Any market system changes should initiate a review by the AER on a registered default RoLR. For example, smart meters would lead to a change in MSATS Furthermore, Ergon Energy suggests that</p>
<p>24. 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.</p>	<p>Ergon Energy supports alignment with AEMO's NEM RoLR Processes document as much as possible in the event of a failed local retailer.</p>

### 2.3 Retailer of last resort cost recovery scheme issues Paper

Question	Ergon Energy Response
<p>3. Should the AER place restrictions in the RoLR guidelines on the time within which a RoLR may apply for a RoLR cost recovery scheme</p> <p>4. If so, what is an appropriate time limit for an application for post event costs following a RoLR event?</p> <p>5. What is an appropriate time limit for an application from a default RoLR for preparation costs</p>	<p>Ergon Energy suggests that the RoLR guidelines should incorporate timeframes for the application of a post event cost recovery.</p> <p>As far as practicable, it is suggested that the timeframes be consistent with the existing cost recovery provisions for pass through events.</p>
<p>11. What are the likely sources of incremental costs for a RoLR at the time of or following a RoLR event</p> <p>12. 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?</p> <p>13. In what circumstances are the incremental costs incurred after a RoLR event likely to be significant</p>	<p>The timing of a RoLR event has the potential to cause significant additional costs which cannot be otherwise anticipated. A RoLR event close to the end of a calendar year or financial year is likely to have a major impact on the default RoLR or additional RoLR which cannot be provided for until the event occurs – for example changes may be required to a retailer’s energy trading strategy including hedging arrangements, adjustments to renewable energy target obligations, re-working of financial reporting.</p>
<p>21. For a distribution network tariff variation, what are the relevant considerations when determining which distributor should make payments to the retailer?</p>	<p>Relevant considerations includes:</p> <ul style="list-style-type: none"> <li>○ which DNSP(s) have customers that are impacted by a RoLR event.</li> <li>○ Administrative simplicity and materiality. There may be a case for one DNSP to pay and recover all RoLR payments, if one DNSPs share of a RoLR event is considered relatively immaterial.</li> </ul>
<p>22. 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?</p>	<p>The allocation of costs should be fair and equitable for the customers within a distribution network that is impacted by a failed retailer.</p> <p>Ergon Energy considers that there needs to be an appropriate allocator to</p>

ensure that a DNSP only incurs costs proportionate to its customer base that has been impacted by a specific RoLR event. For example if a failed retailer has 90% of its customers in one DNSPs supply area and only 10% in another DNSPs supply area - it would not be equitable for each DNSP (and its customers) to fund a 50-50 split. However as noted above, from a materiality aspect there may also be a case for one distributor to pick up all the costs if the resulting share as calculated above exceeds a set %, for example 90%.

As to how to apportion the costs amongst DNSPs there could be a number of allocators or a hybrid of allocators used to represent the impact of a RoLR event in each of the respective DNSPs networks. For example, cost allocation could be based on :

- a) Customer numbers - This may be an appropriate allocator where costs are mainly administrative - e.g. to automate systems for bulk customer transfers or additional staff to effect the transfers.
- b) Energy usage (kWh) - This may be an appropriate allocator where costs are associated with the need to make additional energy purchases and hedging costs.
- c) A hybrid approach (of both customer numbers and energy usage (kWh)) - This may be appropriate where the use of either customer numbers or kWh on their own is not appropriate. For example, 50% of the costs could be allocated based on customer numbers and 50% could be allocated based on kWh consumption over a set period. This % split could be altered depending on what is deemed to be the prime driver of the cost incurred, that is if the prime driver is a per customer cost then say, 75% of the cost is shared by customer numbers, and the remaining 25% by kWh.