

19 August 2011



By email: AERInquiry@aer.gov.au

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Mr Tom Leuner
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AER draft instruments —Retailer of last resort

Dear Mr Leuner

Jemena appreciates the opportunity to comment on the draft instruments released by the AER in July 2011 dealing with a retailer of last resort (**RoLR**) scheme. Jemena has contributed to the AER's earlier consultation on ROLR issues in December 2010.

Jemena's detailed response to the AER draft instruments is set out in **Attachment 1**.

JEN now looks forward to finalisation of the AER's ROLR guidelines, ROLR plan and ROLR statement of approach. If you wish to discuss the submission please contact Paul Johnston on (02) 9455 1560 or at paul.johnston@jemena.com.au.

Yours sincerely

A handwritten signature in black ink that reads "Sandra Gamble".

Sandra Gamble
General Manager Regulation and Strategy
Jemena Limited

Attachment:

1. Jemena, *Response to retailer of last resort draft instruments*, 19 August 2011

ATTACHMENT 1

AER draft Instruments—Retailer of Last Resort

19 August 2011

1. Introduction and key messages

The AER has issued three draft instruments setting out how it will carry out its ROLR responsibilities when the National Energy Customer Framework (**NECF**) is implemented in each jurisdiction. In addition, the AER has issued a “Notice of draft instruments” which clarifies why the AER has adopted a particular approach to each issue, and the extent to which the AER has accepted stakeholder views.

Jemena welcomes many features of the AER’s draft instruments and its response to the December 2010 stakeholder submissions. We appreciate that the AER has accepted a number of our suggestions.

2. Retailer of last resort cost recovery scheme

In its December 2010 response, Jemena submitted that the first option should be to use a retailer cost recovery mechanism. If the failed retailer were large, then perhaps there was a case for using network tariffs to modify the disproportionate effects of cost recovery on the failed retailer’s customers.

The draft statement of approach proposes some general principles for cost recovery, such that¹:

- up front fees should not result in significant price shocks for customers
- the recovery of costs should not be limited to customers of the failed retailer
- cost recovery should occur over the largest customer base which is appropriate to the circumstances.

Jemena generally agrees with these principles. Our main concern in our December response was that distributors could be penalised financially if they were targeted as the sole means of cost recovery. In that regard, the AER’s draft position sets out a number of welcome assurances²:

- The AER will take into account any potential financial impacts which the distributor payment determination may have on distributors and will consult with affected distributors prior to making a determination.
- The AER will consider the allocation methodology used to apportion liability for the distributor payment determination on a case by case basis. Any allocation methodology will be fair and reasonable.
- The AER agrees with submissions that, if the cost allocation methodology results in one distributor being allocated the bulk of the RoLR costs, then that distributor should be allocated all the RoLR costs provided it does not impose an onerous financial burden on the distributor. The value of allocating small amounts of costs to other distributors would not justify the higher administrative costs involved.

¹ AER, *Retailer of Last Resort statement of approach - Draft*, July 2011, s. 5.3.

² AER, *Notice of draft instruments*, July 2011, s. 3.5.4.

These assurances go a long way to alleviating Jemena's initial concerns with the potential financial impact on distributors of a RoLR cost recovery scheme, including a need for the AER's explicit recognition of adverse cash flow consequences for distributors.

3. Data custodians

In the December 2010 responses, industry stakeholders generally supported the continuation of current arrangements— whereby distributors act as the data custodian for electricity and AEMO acts as the data custodian for gas.

In the notice of draft instruments³, the AER notes that “the AER has discussed data custodian arrangements with AEMO. Both parties agree that the further development or adjustment of data custodian arrangements should be progressed by AEMO”. However, Jemena is unsure what is intended by the comment that further development will be progressed by AEMO. We are aware that AEMO is progressing a number of consultations to determine what procedural changes need to be made in preparation for the NECF, and that this could include RoLR matters.

Jemena acknowledges that electricity distributors have been assigned the role of data custodian in various jurisdictions and accepts this role for Jemena Electricity Networks in Victoria. However, we support retention of the current situation for NSW gas distributors, where AEMO continues as the data custodian.

4. Appointment of multiple retailers of last resort

In its December 2010 response, Jemena noted that appointing an excessive number of ‘additional’ RoLRs for a given distribution system could lead to inefficiencies in the customer transfer process during a RoLR event.

In the notice of draft instruments, the AER has agreed that customer communication complications may increase as the number of RoLRs designated increases, and that some potential exists for delays and errors in communications between distributors, RoLRs and customers.

However, the AER considers that, given enough time in a RoLR event, there are practical reasons to involve more than one retailer. The draft guidelines say that the AER may designate more than one RoLR if it is of the opinion that it is appropriate to do so having regard to the size of or other circumstances surrounding the RoLR event.⁴

The AER's comments suggest that it will adopt a proportionate approach in the appointment of multiple RoLRs. Jemena accepts that, in a sizeable RoLR event, the benefits from multiple retailers may outweigh any resulting communication inefficiencies.

³ AER, Notice of draft instruments, s. 3.5.5.

⁴ AER, *Draft Retailer of Last Resort guidelines*, July 2011, s. 2.