



Notice of final instruments

Retailer of Last Resort (RoLR) guidelines

RoLR plan

RoLR statement of approach

November 2011

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Shortened forms

ACCC	Australian Competition and Consumer Commission
AER	Australian Energy Regulator
AEMO	Australian Energy Market Operator
Backup RoLR	A registered RoLR who may be designated if a default RoLR fails
customer framework	The National Energy Retail Law, National Energy Retail Rules and National Energy Retail Regulations
Distributor	Distribution Network Service Provider
Electricity Law	National Electricity Law
Electricity Rules	National Electricity Rules
ESCV	Essential Services Commission of Victoria
Gas Law	National Gas Law
Gas Rules	National Gas Rules
NEM	National Electricity Market
Retail Law	National Energy Retail Law
Retail Regulations	National Energy Retail Regulations
Retail Rules	National Energy Retail Rules
RoLR	Retailer of Last Resort
RoLR register EoI	Retailer of Last Resort register Expression of Interest
STTM	Short term trading market
TNI	Transmission node identifier

1 Introduction

1.1 Background

In March 2011, legislation to create a new National Energy Customer Framework (customer framework) was passed. The customer framework, comprising the National Energy Retail Law (Retail Law), National Energy Retail Rules (Retail Rules), National Energy Retail Regulations (Retail Regulations) and other associated instruments, has been developed through extensive consultation by the Ministerial Council on Energy (MCE). The MCE has agreed that jurisdictions will work towards a common target date of 1 July 2012 for commencement of the customer framework.

The Retail Law makes provision for a national Retailer of Last Resort (RoLR) scheme to provide common arrangements across jurisdictions in case of retailer failure. Retailer failure under the Retail Law can be triggered in a number of ways, including suspension from wholesale energy markets by the Australian Energy Market Operator (AEMO). The RoLR scheme is principally designed to ensure that in the event of retailer failure, arrangements are in place to ensure that customers continue to receive electricity and/or gas supply.

The AER has a number of responsibilities under the RoLR scheme. It is responsible for the registration and appointment of RoLRs and the determination of a RoLR cost recovery scheme to allow for the recovery of RoLR scheme costs in accordance with the provisions of Part 6 of the Retail Law. It is also responsible for developing a RoLR plan to be followed by RoLR participants in the event of retailer failure.

1.2 AER RoLR framework

The manner in which the AER proposes to undertake these functions is set out in three separate documents which are attached to this notice— RoLR guidelines, RoLR statement of approach and RoLR plan. This approach facilitates a holistic consideration of the whole suite of RoLR issues. A brief description of each of the documents follows.

1.2.1 RoLR guidelines

Section 135 of Retail Law states:

- (1) The AER must develop, make and maintain AER RoLR guidelines in accordance with the retail consultation procedure.
- (2) The guidelines must—
 - (a) specify the circumstances in which the appointment of more than one designated RoLR for a RoLR event may occur; and
 - (b) specify the manner of determining the allocation of the designated RoLRs to particular customers or classes of customers; and
 - (c) provide for any other matter that the AER considers necessary in the circumstances.

- (3) The guidelines may (without limitation) make different provision for the failure of large retailers, small retailers and retailers that are default RoLRs.
- (4) The manner of determining the allocation of designated RoLRs referred to in subsection (2) must involve the use of meter identifiers alone or the use of a combination of meter identifiers and other means acceptable to AEMO, and must be determined by the AER in consultation with AEMO.
- (5) The guidelines may (without limitation)—
 - (a) specify the form of and information to be included in a RoLR register EoI; and
 - (b) specify the form of and information to be included in an application for a RoLR cost recovery scheme; and
 - (c) provide for any other matter the AER considers necessary with respect to the RoLR scheme.
- (6) The AER may amend the guidelines in accordance with the retail consultation procedure.

1.2.2 RoLR statement of approach

The AER has also decided to set out a broader RoLR statement of approach, which has no formal status under the Retail Law. This is designed to complement the RoLR guidelines and assist industry to understand the operation of the overall RoLR framework by providing other information on RoLR registration and appointment and RoLR cost recovery.

In particular, the RoLR statement of approach provides information on:

- when the AER will call for expressions of interest to register as a RoLR, and
- when the AER will make a ‘designation decision’ (the decision to appoint someone as a RoLR) and if it does, what information it will use to make its decision.

The RoLR statement of approach also sets out general principles the AER will consider when making a cost recovery scheme determination. It sets out typical RoLR event scenarios and the proposed approach to cost recovery schemes for these scenarios. However, it should be noted that the AER is required to make a cost recovery scheme determination on a case by case basis for each retailer designated as a RoLR that submits an application for cost recovery.

1.2.3 RoLR plan

The Retail Law requires the AER to develop, make and maintain RoLR plans. The RoLR plan outlines procedures to be followed by RoLR plan participants:

- for a RoLR event, including direct communication with customers of a failed retailer; and
- for conducting RoLR exercises.

The AER has set out in its RoLR plan the proposed procedures to be followed by participants during a RoLR event and the proposed nature of the RoLR exercises.

1.3 Purpose of RoLR final notice

The purpose of this notice is to state the reasons for making the instrument in its final form.¹ This notice does so by building on the notice of draft instruments and addressing the issues raised in submissions to the draft RoLR package released by the AER in July 2011.

1.4 Structure of RoLR final notice

The RoLR notice is structured as follows:

- Chapter 2 provides information on the development of the RoLR framework and an overview of the key issues raised in submissions received from the July 2011 consultation process.
- Appendix A provides an in-depth response to the issues raised in submissions received from the July 2011 consultation process.
- Appendix B provides a summary of the changes made to the RoLR guidelines, RoLR statement of approach and RoLR plan from the draft versions of these documents.

¹ *National Energy Retail Rules*, r.173(3).

2 Development of the RoLR framework

2.1 Overview

The AER has undertaken two formal consultation processes to inform the development of the RoLR scheme. In November 2010, the AER released issues papers on RoLR registrations and appointments, RoLR cost recovery and the RoLR plan. In July 2011, the AER published the draft RoLR package which included the release of the RoLR notice of draft instrument, draft RoLR guidelines, draft RoLR plan and draft RoLR statement of approach (the draft RoLR package). Throughout both consultation processes, the AER held RoLR stakeholder forums to explain the issues identified in the consultation papers and to seek feedback from stakeholders on the AER's development of the RoLR scheme.

The AER's final RoLR package, consisting of the RoLR guidelines, RoLR statement of approach and RoLR plan, takes into account issues identified by submissions received in response to both consultation processes in its development of the final RoLR package.

The RoLR guideline and RoLR plan will take effect on 1 July 2012. The MCE Standing Committee of Officials Bulletin No. 190 advised that all activities carried out by the AER prior to the commencement of the Retail Law (such as consultation, making instruments and decision-making) will be supported by appropriate transitional provisions enacted by participating jurisdictions. This ensures instruments and decisions made as a result of these activities are valid and take effect on commencement of the Retail Law.

The RoLR statement of approach has no formal status under the Retail Law. The RoLR statement of approach is designed to be a complement to the RoLR guidelines. It provides other information on RoLR registration and appointment and RoLR cost recovery to assist industry understand the operation of the overall RoLR framework.

2.2 Submissions received in response to draft RoLR framework

The AER received responses from Energy Ministers, AEMO, retailers, distributors and ombudsman schemes in response to the AER's draft RoLR package.

Overall, submissions were generally supportive of the AER's approach to the development of the RoLR scheme. However, stakeholders did seek greater clarity regarding the operation of the RoLR scheme, particularly in relation to RoLR cost recovery, pre-event RoLR communications and RoLR exercises. Key issues identified regarding RoLR registrations and appointments, RoLR cost recovery and the RoLR plan are set out below.

RoLR registrations and appointment

Key issues identified in submissions regarding RoLR registrations and appointment included:

- which retailers can register to be an additional RoLR where there is no declared wholesale gas market or Short Term Trading Market (STTM)

- on what basis will the AER appoint additional RoLRs and
- the scope and readiness of the AER's RoLR Standing Instructions to AEMO.

RoLR cost recovery

Key issues identified in submissions regarding RoLR cost recovery were:

- what costs RoLRs can recover under the RoLR scheme
- how the AER will assess RoLR benefits and
- how will distributor RoLR cost recovery work.

RoLR plan

Key issues identified in submissions regarding the RoLR plan included:

- whether the AER should pre-warn RoLR plan participants of a RoLR event
- who is required to provide customer data to the designated RoLR and
- the scope of RoLR exercises.

Each of these issues is discussed in more detail in Appendix A.

A. Summary of issues raised in submissions

A.1 Registration and appointment

Issue	AER response
<p>RoLR criteria</p> <p>Citipower/Powercor supported the AER’s application of the RoLR criteria and in particular, its emphasis on RoLRs having the financial capacity to act as a RoLR.</p>	<p>The AER acknowledges Citipower/Powercor's general support of the AER’s approach to registering RoLRs against the RoLR criteria and in particular, its focus on the financial capacity criterion.</p> <p>Under the Retail Law, the AER can require the provision of financial information in order to assess applications for registration as a default or additional RoLR. In the RoLR guidelines, the AER sets out information that may be useful to assist the AER to assess a retailer’s registration application against the RoLR criteria. This includes details of a retailer’s bank guarantees and the extent to which those guarantees support the retailer’s claims to be a designated RoLR.</p>
<p>Default RoLR registration</p> <p><i>Inconsistency between default RoLR obligations and credit support</i></p> <p>TRUenergy stated that the proposed default RoLR obligations and requirements are inconsistent with the new credit support settings, which require retailers with better credit ratings to pay a larger share of credit support.</p>	<p>The AER notes TRUenergy's concerns regarding the credit support arrangements under the Retail Law and how this may interact with the RoLR scheme. However, the AER is not responsible for establishing or amending retailer-distributor credit support arrangements under the customer framework and therefore, can not address the matter in the</p>

<p><i>Registering default RoLRs by Transmission Node Identifier (TNI)</i></p> <p>UED/Multinet recommended that the AER review the TNI allocation list on a three-yearly basis, to ensure accuracy and completeness. UED/Multinet recommended that this occur at the same time the default/backup RoLR arrangements are reviewed.</p>	<p>context of the RoLR scheme.</p> <p>The AER agrees with UED/Multinet that TNI allocation lists should be regularly reviewed. In instances where the default or backup RoLRs are appointed on a TNI basis (either by transitional arrangements or the AER), the AER will review these arrangements on at least a 3-yearly basis. However, if the AER is advised of a TNI change, such as the creation of a new TNI, the AER will update the arrangements immediately.</p>
<p>Default RoLR appointment</p> <p>AEMO requested clarification of the Standing Instructions, particularly which jurisdictional default RoLRs will be transferred over to the national scheme and in which jurisdictions the AER will be appointing default RoLRs.</p>	<p>The AER confirms that Standing Instructions with AEMO will be in place by 1 July 2012. The Standing Instructions will outline default RoLRs that are transitioning from jurisdictional arrangements to the customer framework and those that are registered and appointed by the AER.</p>
<p>Additional RoLR registration</p> <p><i>Additional RoLR registration where there is no declared wholesale gas market or STTM</i></p> <p>Origin Energy stated that for small, isolated networks, the requirement that retailers should have gas contracts in place before they will be registered as additional RoLRs should not apply. This is because the gas contracts of the failed retailer can be assigned to the designated RoLR.</p>	<p>The AER agrees with Origin Energy that retailers should have the ability to seek registration as an additional RoLR for small gas distribution networks, despite not having gas contracts in place.</p> <p>In the notice of draft instrument, the AER stated that it will not register</p>

	<p>additional RoLRs against networks if they do not have contracts in place to ship gas. The AER proposed this position after having regard to the suitability criterion of the RoLR criteria.</p> <p>Where there is no declared wholesale gas market or STTM, the suitability criterion of the RoLR criteria requires the AER to take into consideration whether the retailer has gas and pipeline capacity available to it. Based on this, the AER made the decision to rule out additional RoLR registration for retailers who did not have existing contracts.</p> <p>The AER did not apply the same approach to default RoLR appointments, since this would limit the options the AER has in making the mandatory appointment of default RoLRs. That said, the AER considered that it would be ideal if the default RoLR for these networks have existing contracts.</p> <p>Origin Energy highlights that the AER has the power under the Retail Law to assign the failed retailer's gas contracts to the gas designated RoLR, if the designated RoLR does not have any existing contract for gas or pipeline capacity. Origin Energy considers that the AER should have regard to this power and consider registering additional RoLRs for small, isolated distribution systems even if they do not have existing contracts.</p> <p>The AER acknowledges this power, but considers that an intervention into the market to reassign contracts between parties as an action of last resort. Further, and as explained above, it would be difficult for a retailer to satisfy the suitability criterion if it does not have existing gas contracts in a distribution system where there is no declared wholesale</p>
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	<p>gas market or STTM.</p> <p>That said, the AER has decided it will not rule out registering additional RoLRs against distribution systems of which they do not have contracts in place to ship gas. Instead, the AER will consider the merits of each registration application, before determining whether they should be registered as an additional RoLR.</p>
<p>Additional RoLR appointment</p> <p><i>NMI classification versus Customer class</i></p> <p>AEMO identified inconsistencies between electricity jurisdictional consumer thresholds (for large and small customers) and thresholds in the Retail Regulations. In particular, AEMO noted its concern regarding the cost and resource implications that may be associated with integrating customer classifications into its market systems for the purposes of the RoLR scheme.</p>	<p>The AER acknowledges AEMO's comments regarding the inconsistency between electricity jurisdictional customer thresholds in the MSATS procedures and those established under the customer framework.</p> <p>The inconsistency between the MSATS procedures and the customer framework means that additional RoLRs seeking small customers only may receive large customers if they are appointed as the designated RoLR. For example, under the MSATS procedures, the small NMI threshold for Victoria is less than 160MWh. However under the customer framework, the small customer threshold is established at less than 100 MWh. Therefore, if a RoLR event in Victoria occurs, a customer consuming 110MWh will be transferred to the designated RoLR in AEMO's systems as a small customer.</p> <p>This inconsistency creates a minor concern for the RoLR scheme.</p>

	<p>Under the proposed RoLR scheme, a retailer may register as an additional RoLR to pick up small customers only. Since customers are transferred on a NMI classification basis only, additional RoLRs will receive large customers that are classified within the small NMI threshold. Since small and large customers are treated differently under the RoLR scheme, the additional RoLR will be required to identify small and large customers and then apply different arrangements. This includes offering the standing offer price to small customers (subject to RoLR cost recovery arrangements) and offering fair and reasonable prices to large customers.</p> <p>This inconsistency appears only to apply to Victoria and the Australian Capital Territory, since the other jurisdictional customer thresholds accord with their NMI classifications. The AER also understands that changes to NMI classification thresholds may require costly industry-wide changes.</p> <p>Accordingly, the AER will not be advocating for system changes in the short term. Therefore, under the AER's RoLR scheme, if a retailer seeks registration as an additional RoLR, it may limit the type of customer it acquires on the basis of NMI classification and not on customer class.</p> <p>The AER notes that AEMO is currently consulting on including a customer classification field in the MSATS system. If this field is included, the AER will work with AEMO to identify how this field may be used in the context of the RoLR scheme.</p>
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Basis for additional RoLR appointment

Origin Energy considered that the AER should consider further criteria beyond a simple assessment of customer numbers and/or market share before it determines whether an additional RoLR should be appointed as the designated RoLR.

In regard to assessing potential RoLRs, AEMO stated that the information about current prudential limits provided by AEMO may not provide an accurate representation, particularly where the market is experiencing significant volatility.

AEMO stated that it could provide some information regarding the value of forecasted limits needed to take on new customers but that there may be constraints to providing this information. AEMO also noted that it cannot evaluate a retailer's ability to absorb new customer load.

AEMO recommended that the AER also utilise information provided by retailers in the expression of interest process, along with AEMO's prudential information, when assessing a retailer against the RoLR criteria.

The AER agrees with Origin Energy that the AER should consider more factors than customer numbers and/or market share before it determines whether an additional RoLR should be appointed. While the AER recognises these elements are important, as noted in its draft decision, the AER will also consider the designation RoLR criteria, which includes the RoLR criteria (set out by s.123 of the Retail Law), the registered RoLRs' cost recovery arrangements, the imminence of the RoLR event and other matters the AER considers relevant in the circumstances.

The AER agrees with AEMO that financial information provided by registered RoLRs in the registration process as well as prudential information provided by AEMO, should be considered when the AER is deciding whether to appoint additional RoLRs as designated RoLRs.

<p><i>Seeking expressions of interest from registered RoLRs</i></p> <p>AGL questioned the practicality of a RoLR scheme that contemplates expressions of interest and additional RoLRs, given that RoLR events generally occur with little notice.</p>	<p>The AER disagrees with AGL that a RoLR scheme which contemplates an expression of interest process is not practical.</p> <p>By providing for an expressions of interest process in instances where the AER has more than 48 hours notice that a RoLR event may occur (for example, in cases where the AER may revoke a retailer authorisation through the formal consultation process), the AER does not compromise the practicality or workability of the RoLR scheme. Instead, it enhances the likelihood of a non-default RoLR acting as a designated RoLR. This will potentially achieve consumer benefits such as reduced RoLR cost recovery, while not compromising the customers' supply in a RoLR event.</p>
<p>Multiple RoLR appointment</p> <p><i>Benefits</i></p> <p>Jemena supported the AER's proposed approach in considering the appointment of multiple RoLRs in a RoLR event. Jemena considered that the benefits in appointing multiple RoLRs are likely to outweigh any risk of delays or errors in communication between distributors, RoLRs and customers.</p>	<p>The AER agrees with Jemena that the benefits in appointing multiple RoLRs have the potential to outweigh the event management benefits that may be derived from appointing one designated RoLR. Specifically, the AER considers that the benefits which may be derived from appointing multiple RoLRs include avoidance of cascading market failure, promotion of market competition and reduced RoLR cost recovery.</p>

<p><i>Multiple appointment: default RoLR/backup RoLR</i></p> <p>AEMO suggests the AER’s approach to the appointment of default RoLRs and backup RoLRs, set out in clause 2.2.4 of the RoLR guideline, is inconsistent with the Essential Services Commission of Victoria’s (ESCV’s) 2008 Final Decision on Geographic Boundaries for Gas Retailers of Last Resort. The ESCV’s 2008 Final Decision establishes that when a second tier retailer fails, customers will be allocated to the three different RoLRs on the basis of distribution system. AEMO notes that if the AER wishes to depart from this decision, AEMO will need to make system changes</p>	<p>The AER disagrees with AEMO that its proposed approach to multiple default RoLR and backup RoLR appointment does not provide for gas RoLRs being appointed by distribution system.</p> <p>Clause 2.2.4 of the RoLR guideline provides that: ‘it is unlikely the AER will consider one retailer be the default RoLR/backup RoLR for all connection points and gas distributions’.</p> <p>This means it is unlikely the AER will appoint one retailer for all the connection points or gas distribution systems for all affected states and territories. Clause 3.2 of the RoLR guideline also states that the AER will allocate gas customers to designated RoLRs by distribution system.</p> <p>The AER, however, acknowledges its drafting has caused confusion and will amend the RoLR guideline to ensure this matter is clarified.</p> <p>It is also noted that the ESCV’s 2008 Final Decision does not mention first tier retailer failure and backup RoLR arrangements.</p>
<p>Revocation of retailer authorisations</p> <p>TRUenergy expressed concern that the AER would allow a failed retailer to continue to hold a retailer authorisation under the customer framework. TRUenergy submitted that a failed retailer’s retailer</p>	<p>The AER agrees with TRUenergy that a failed retailer’s retailer authorisation should be revoked where it triggers a RoLR event. It is the AER’s view that where a retailer triggers a RoLR event, it is a clear indication that the retailer does not have the financial capacity to</p>

<p>authorisation should be revoked where it triggers a RoLR event.</p>	<p>operate as a retailer in the energy markets. The Retail Law provides for the AER's process for revoking a retailer authorisation to be aligned with the RoLR process.</p>
<p>RoLR package</p> <p>Origin questioned the necessity of the AER's RoLR statement of approach. Origin was of the view that all information could be contained in the Guideline and the Plan.</p>	<p>The AER disagrees with Origin Energy that all information should be contained in the RoLR guidelines and RoLR plan. The guidelines and plan are mandatory under the Retail Law, whereas the statement of approach is not. The AER's RoLR statement of approach is designed to complement the AER's RoLR guidelines and plan. The purpose of the statement of approach is to provide additional information to registered participants regarding RoLR registration, appointments and cost recovery as a clear indication to industry on the operation of the RoLR framework. The AER notes Origin Energy's views regarding the utility of the statement of approach, but considers this document is a useful tool for industry and as such, it will remain in the RoLR package.</p>

A.2 Cost recovery

Issue	AER response
<p>Cost recovery approach</p> <p>Envestra considered that:</p>	<p>The AER agrees with Envestra that the likelihood of discontinuity to supply following a RoLR event is low (for both electricity and gas).</p>

<ul style="list-style-type: none"> ▪ in the event of a gas retailer failing, the risk of discontinuity of gas supply to customers is low ▪ the AER’s arrangements should aim to minimise the overall costs to the industry to ensure expenditure is prudent, and. ▪ the AER should be aware it may take one to two years for distributors to implement industry wide changes to be compliant with the RoLR scheme. <p>Essential Energy maintained its position that the retailer should be responsible for passing on any related RoLR costs, similar to the current position in NSW. Essential Energy considers if customers are aware that a fee may apply should a RoLR event occur, then this will form part of their decision when choosing a retailer. ActewAGL Distribution is of the opinion that options for distributors’ cost recovery are not sufficiently addressed in the draft package.</p>	<p>However, given a discontinuity of supply is highly undesirable, it is important the RoLR scheme protect against such an outcome.</p> <p>Under the customer framework and the existing gas regulatory framework, the AER does not have any power to make arrangements to minimise the costs for distributors with regard to the cost of setting up systems to cater for a retailer failure. However, under Envestra’s access arrangement, the costs it incurs in setting up systems to cater for a retailer failure may be recoverable through a cost pass through adjustment provided the definitional and materiality thresholds for the applicable pass through event are met.</p> <p>The Retail Law also does not allow the AER to limit generally who can pass on RoLR cost recovery scheme costs. Whether a retailer or distributor (or both) will pass on RoLR related costs to customers will be based on the cost recovery mechanism which the AER determines as part of the RoLR cost recovery scheme determination. This decision must be made in accordance with the principles in s. 166(7) of the Retail Law and the National Energy Retail Objective.</p>
<p>Distributor RoLR cost recovery</p> <p><i>General</i></p> <p>Envestra considered in the event of a retail failure, distributors prefer ‘business as usual billing practices’ with the RoLR.</p>	<p>The AER notes Envestra’s preference for ‘business as usual billing practices’ following a RoLR event. However, under the Retail Law, the AER is not responsible for billing arrangements between a RoLR and distributor following a RoLR event. The AER considers the</p>

<p>Citipower/Powercor consider distributor RoLR costs should be treated in the same manner as retailer RoLR costs – that is all costs are recoverable and no materiality threshold is applied and distributors should not incur costs for managing a RoLR event.</p> <p><i>Recovery of distributor payment determination</i></p> <p>UED/Multinet sought assurance from the AER that the recovery of the distributor payments is able to occur where recovery is across pricing determinations or across access periods.</p>	<p>appropriate billing timeframes are a private commercial matter for the RoLR and distributor to negotiate.</p> <p>The AER acknowledges Citipower/Powercor’s preference for distributor costs to be treated in the same manner as retailer RoLR costs. As this consultation process relates to the AER’s power and functions under the NECF, there is limited scope for consideration of the treatment of distributor RoLR costs. During this consultation process, the AER has sought to assist distributors understand the cost recovery mechanisms available to them under the existing regulatory framework and the customer framework.</p> <p>A distributor does not need to meet any materiality threshold to recover the distributor payment determination or the costs recoverable under a retailer insolvency event. However, for a distributor to recover other distributor RoLR costs this must be done either through a pass through application (and satisfy the applicable materiality thresholds) or included as part of the distributors regulatory proposal (provided the costs are to be incurred in the regulatory period to which the proposal relates).</p> <p>It does not appear that the recovery of distributor payments is able to occur across pricing determination or across access periods. Section 167 of the Retail Law amends a <i>distribution determination or applicable gas access arrangement</i> such that payments made under the distributor payment determination are taken to be positive pass through amounts approved under the Electricity Rules (for electricity) or</p>
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<p>Origin Energy emphasized that where approved RoLR costs are to be recovered via distributor payment determinations, distributors should be kept financially whole with appropriate consideration of cash flow impacts.</p> <p>Essential Energy sought clarification from the AER that a distributor would not need to apply to recover the payments made under a distributor payment determination or satisfy the materiality threshold for a cost post through. If this is the case, then the first notification the AER would receive from a distributor of a distributor payment determination pass through amount would be at the next annual pricing proposal.</p>	<p>approved cost pass throughs allowing variation of the distributors reference tariffs (for gas).</p> <p>There does not appear to be a mechanism in either the Electricity Rules or the Gas Rules to permit the pass through of costs incurred in one regulatory period in the following regulatory period. Thus, a payment made under a distributor payment determination must be recovered in the regulatory control period in which the electricity distribution determination or applicable gas access arrangement applies.</p> <p>The AER has sought to minimise any cash flow impacts on distributors which may occur as a result of the distributor payment determination. As outlined in the statement of approach, when attributing distributor liability for a distributor payment determination the AER will take into account the need to minimise short term funding constraints. Further, in recovering the distributor payment determination, distributors will be able to recover a time value of money component.</p> <p>The AER clarifies for Essential Energy that a distributor does not need to apply to recover the distributor payment determination or satisfy a materiality threshold. For electricity, s. 167(4) of the Retail Law deems any payments made to a retailer under a distributor payment determination to be a positive pass through approved under the Electricity Rules. The first notice the AER will receive of a distributor payment determination pass through amount is at the next relevant annual pricing proposal. The distributor should provide documentation</p>
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<p>Essential Energy does not consider it appropriate for a distributor to carry a shortfall of the cost pass through amount, including the time value of money, for a period of over two years. Essential Energy does not believe such a situation is fair or equitable, as the RoLR is in the best position to manage this risk through a RoLR cost recovery scheme application.</p> <p>Essential Energy proposes the AER should have to wait until all costs under a distributor payment determination are recovered from customers before a payment for that amount, plus the time value of money, is required from distributors.</p> <p><i>Recovery of unpaid network charges under the retailer insolvency pass through event</i></p> <p>UED/Multinet sought assurance from the AER that revenue forgone through unpaid distribution charges is a cost within the meaning of the</p>	<p>to the AER confirming the amounts paid to the RoLR when it is seeking to incorporate distributor payments during the annual pricing proposal.</p> <p>The AER acknowledges Essential Energy’s view that the distributor should not carry the shortfall for the cost pass through amount. The AER notes its role as a regulatory body and suggests such issues may be more appropriately addressed in the policy space. A consequence of the current framework is that distributors may carry a shortfall. As outlined in the statement of approach, when determining which distributor(s) are liable for the distributor payment determination the AER will take into account the need to minimise short term funding constraints.</p> <p>The AER considers Essential Energy’s proposal that the AER allow the distributor to recover the distributor payment determination before allowing payment of that amount to RoLRs may be possible. The AER notes any decision regarding the timing of payments will be made on a case-by-case basis in the context of the RoLR event. However, given the imperative of the RoLR cost recovery scheme is to prevent cascading retailer failure and maintain the integrity of the wholesale market, in many cases it would not be appropriate to defer payments to the RoLR.</p> <p>The AER confirms that unpaid network charges are recoverable under the retailer insolvency event. Given the intent of the amendments, the AER considers unpaid network charges can constitute a cost which</p>
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<p>relevant clauses in the retailer insolvency event provisions, which will be introduced into the Electricity Rules as part of the customer framework. Envestra sought similar clarification for the recovery of unpaid distribution charges under the retailer insolvency event introduced into the Gas Rules as part of the customer framework.</p> <p>Envestra sought clarification on whether any timeframe applied to the AER's decision to approve a reference tariff variation associated for a retailer insolvency event. Envestra noted delay in recovery of costs by distributors would be significant and severe if a tier 1 retailer failure occurred.</p> <p><i>Recovery of other RoLR distributor costs</i></p> <p>Citipower/Powercor disagree with the AER's view that under the retailer insolvency event the only costs recoverable are unpaid network charges. They consider the retailer insolvency event allows for the recovery of all RoLR distributor costs.</p>	<p>increases the cost of providing direct control services (electricity) and reference services (gas).</p> <p>The AER agrees with Envestra that the timeframe which applies to the AER's decision to approve a reference tariff variation is the time limit in the relevant access arrangement.</p> <p>The AER disagrees with Citipower/Powercor that the retailer insolvency event automatically allows for the recovery of all distributor RoLR costs. While there is no explicit limitation on what types of costs might be recoverable, the increased costs must be as a result of the retailer insolvency event. The retailer insolvency event is defined as the failure of an insolvent retailer to pay a distributor network charges to which it owes. Thus, the distributor can only recover costs incurred which stem from the failure of an insolvent retailer to pay network charges.</p>
<p>RoLR preparation costs</p> <p><i>Who can apply for preparation costs</i></p> <p>UED/Multinet sought clarification on whether the preparation costs attributed to a backup RoLR are recoverable through a RoLR cost recovery application.</p>	<p>Backup RoLRs will not be able to recover their RoLR preparation costs. Section 166(3) of the Retail Law limits the recovery of preparation costs to default RoLRs only. Backup RoLRs are not considered default RoLRs.</p>

<p><i>Assessing efficiency of preparation costs</i></p> <p>AGL sought clarification on how the AER will judge a RoLR's costs to be efficient. AGL was concerned in some regulatory contexts, efficiency was judged through benchmarking and that this approach, if adopted, may disadvantage a RoLR's ability to recoup as each retailer has different systems and processes.</p>	<p>The AER may use a variety of approaches when assessing the efficiency of preparation costs. Primarily, the AER will assess whether the default RoLR has sought to constrain their preparation costs. This does not necessarily involve benchmarking. For example when seeking to recover preparation costs associated with implementing IT system changes, the RoLR may produce documents of competitive tender processes from IT businesses or business cases as evidence the costs incurred were efficient.</p>
<p>RoLR event costs</p> <p><i>Assessing reasonable costs</i></p> <p>TRUenergy submitted that, in determining reasonable costs the AER should take into account the frenetic nature of RoLR events. TRUenergy considers that as a result of this, the designated RoLR is likely to face additional costs which it would not incur in a normal market. In these circumstances TRUenergy considers it is appropriate for the RoLR to be reimbursed for any additional costs which are not covered by its administration fee where the RoLR can demonstrate such costs are legitimately incurred.</p> <p>AGL submitted the AER must acknowledge it will not always be possible in times of extreme urgency for costs to be as low as they may be in other situations and these circumstances must be taken into account when considering the 'efficiency' of costs.</p> <p><i>Limitation on recoverable RoLR event costs</i></p>	<p>The AER notes TRUenergy and AGL's comments regarding the assessment of RoLR event costs. In assessing RoLR event costs the Retail Law requires the AER to consider the reasonableness of such costs. Costs will be considered reasonable if the actions of the designated RoLR in performing its obligations under the RoLR scheme have been prudent in the circumstances.</p> <p>The AER also notes TRUenergy's comments regarding the administration fee. For clarification, s. 165 of the Retail Law provides that the recovery of RoLR costs can only be recovered in accordance with the Part 6 Division 9 of the Retail Law. The RoLR cannot impose an upfront fee unless the AER approves it as part of a cost recovery scheme determination.</p>

<p>Origin Energy contested the AER's view that short term hedging costs are unlikely to be material and should be excluded, given the unique circumstances of a RoLR event and changing liquidity in the market. Origin Energy welcomed further discussion with the AER on this matter.</p>	<p>The AER notes Origin Energy's concerns about exclusion of short-term hedging costs. To clarify, in the notice of draft instrument the AER did not exclude the recovery of short-term hedging costs outright but stated that the additional cost of short term hedging would not be fully recoverable unless such costs were shown to be reasonable.</p> <p>This was in response to Origin Energy's submission to the cost recovery issues paper that a three month period be imposed for the recovery of incremental wholesale energy costs, then cost recovery should recognise the additional costs borne by RoLR's in entering into short term hedging arrangements. This implies that the RoLR would enter into short term hedging arrangements which matched the period of time in which a RoLR would be able to recover incremental wholesale energy costs.</p> <p>The AER noted in the notice of draft instrument that it should be unnecessary for a RoLR to enter exclusively into short term hedging arrangements which may be more costly to manage the increased customer load. Rather, it could potentially enter into less costly long term hedging arrangements to cover some of its increased load as not all customers are likely to churn away from the RoLR. From this, the AER considers that if short-term hedging arrangements were entered into by the RoLR, for those costs to be recoverable, they must be reasonable in the circumstances.²</p>
<p>RoLR benefits</p>	

² National Energy Retail Law, s. 166(7).

<p>Origin Energy did not support a ‘point-in-time’ assessment of benefits which may accrue to a RoLR. It considers that as every retailer is likely to have different characteristics (including customer characteristics), any assessment of long term benefits must be made after the event. On that basis, Origin argues for analysis of customers transferring from the RoLR after the event, as opposed to a measurement based on forecasts subject to assumptions.</p> <p>AGL seeks to understand in further detail what the AER is proposing. AGL is unclear about how the AER will consider ‘longer term revenue’ in some circumstances and is of the view this could operate to transfer a disproportionate amount of risk to the RoLR. AGL submitted that a number of assumptions will have to be made about customer retention rates following a RoLR event (which may differ from normal rates of customer retention).</p>	<p>The AER has considered when benefits are to be assessed after a RoLR event occurs. If the cost recovery mechanism is not determined until long term benefits have been assessed (as proposed by Origin Energy), there may be some considerable delay between the occurrence of RoLR event costs and their recovery. The AER considers that benefits should be assessed at the same time that costs are assessed.</p> <p>Regarding AGL’s submission, the addition of a block of new customers to a RoLR’s customer base may be valuable to a RoLR. This value can be measured as the net present value of the expected cash flows associated with those customers. As AGL submits, this does require estimates of churn rates, revenue and costs. As with any estimates, there is the risk that actual outcomes will differ from estimates and the RoLR will bear this risk. In some instances this may work to the detriment of the RoLR (if churn rates and costs are underestimated and revenue overestimated). On the other hand, the RoLR will benefit if churn rates and costs are overestimated and revenue is underestimated. In assessing benefits the AER will take into account any available information, such as the rate of customer churn away from the RoLR up to the time that the RoLR submits its application for cost recovery.</p>
<p>Cost recovery form and information requirements (including template)</p> <p><i>RoLR guidelines</i></p> <p>Origin Energy supports the information requirements set out in section 5.1 of the draft guideline.</p>	<p>The AER agrees with Origin Energy that the benefits section of the guidelines template can be developed over time in response to experiences gained during RoLR events.</p>

<p><i>RoLR cost recovery template</i></p> <p>Origin Energy supports the proposed template. Origin Energy considers the ‘benefits’ tab may be further developed as experience is gained following a RoLR event.</p> <p>AGL considers the RoLR preparation costs and RoLR event costs worksheet templates provide a sufficient level of information and flexibility for retailers. AGL is concerned, however, about the detailed information required to be provided in the benefits template worksheet. AGL considers this an onerous requirement that may be extremely difficult to satisfy.</p>	<p>The draft notice of instruments acknowledged that benefits will not be easy to estimate, particularly given the uncertainty over anticipated churn rates. Nevertheless, as outlined in the draft notice of instruments, the AER considers it is appropriate to take into account the benefits accruing to a RoLR from obtaining the customers of the failed retailer, as the addition of a block of customers to its customer base may add value to the RoLR’s business.</p>
<p>Timing of cost recovery applications</p> <p><i>Cost recovery application for preparation costs</i></p> <p>UED/Multinet noted that default RoLR arrangements are likely to be made under the transitional arrangements of each jurisdiction or made by the AER prior to the commencement of the customer framework. On that basis, they understand the AER will need to receive RoLR cost recovery applications for preparation costs around the end of 2012 or at the latest by the end of March 2013.</p>	<p>Applications from default RoLRs for the recovery of preparations costs may be submitted to the AER when a Retailer is appointed as a default RoLR. This may occur before the Retail Law comes into effect in each jurisdiction. The AER considers for regulatory certainty the nine month limit to submit a cost recovery application for default RoLRs appointed prior to the Retail Law coming into effect should start on when the Retail Law commences in the relevant jurisdiction. Assuming that date 1 July 2012, then UED/Multinet are correct in that applications must be lodged by the end of March 2013 (that is, nine months after the Retail Law comes into effect).</p>

<p><i>Cost recovery application for RoLR event costs</i></p> <p>TRUenergy submitted that cost recovery applications should be made within 12 months to allow for the retailer’s costs to be identified.</p>	<p>The draft decision considered the appropriate timeframe for the submission of cost recovery applications and concluded that nine months was reasonable. The draft decision noted that lengthy delays may make substantiation of costs difficult. The AER maintains that nine months is a reasonable period for a RoLR to identify its reasonable costs.</p>
<p>Cost recovery mechanisms (general)</p> <p>TRUenergy submitted that the AER should take into account that there is no certainty the customer will remain with the RoLR when assessing any costs to be borne by affected customers.</p> <p>AGL supports the level of flexibility in designing the cost recovery process to align with the nature of the RoLR event.</p> <p>ActewAGL Retail agrees with the AER’s position that RoLR events and cost recovery must not result in price shocks for customers (especially those in hardship). ActewAGL also supports that the AER will generally not impose limits on the magnitude of costs or classes of costs which are recoverable under a RoLR scheme.</p> <p>ActewAGL Retail suggests that it would be useful if additional detail was available with regard to cost recovery in order to provide participants with an increased level of direction and certainty.</p> <p><i>Distributor payment determination</i></p> <p>TRUenergy considered that the most appropriate mechanism of</p>	<p>As TRUenergy noted, cost recovery schemes should take into account expected churn rates. These are particularly important in estimating the benefits accruing to the RoLR.</p> <p>The AER considers that the information outlined in the guidelines and statement of approach provides retailers with sufficient detail to submit applications for cost recovery. Given that applications for cost recovery will be assessed on a case by case basis, the guidelines and statement of approach cannot be too prescriptive. The AER agrees with AGL that some flexibility is needed.</p> <p>As noted in the draft decision, in certain circumstances (for example, when RoLR scheme costs are significant and could result in price</p>

<p>recovering costs is via the distributor payment determination.</p> <p>Citipower/Powercor acknowledge that the distributor payment determination may be the only appropriate option in cases where the failed retailer is large.</p>	<p>shocks to customers of the failed retailer) the use of only a distributor payment determination may be appropriate. In other cases, other mechanisms, such as upfront charges, may be more suitable.</p>
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A.3 RoLR plan

Issue	AER response
<p>General approach to RoLR plan</p> <p>Submissions were broadly supportive of the AER’s general approach to the RoLR plan. In particular, Citipower/Powercor note they were supportive of the procedures set out in the RoLR plan.</p> <p>Envestra raised concerns in their submission that the RoLR plan may not accommodate first tier RoLR failure.</p>	<p>The AER notes the general support of submissions towards its development of the RoLR plan.</p> <p>In response to Envestra’s concerns, the AER considers the proposed RoLR plan provides for an appropriate communication framework for a first tier or second tier retailer failure. For example, the RoLR plan provides for the AER to use mass communications during large retailer failure. Further, the timeframes within which the designated RoLR must send communication to the customers reflects the timeframes established by AEMO’s procedures which seek to capture the customer transfer process for large retailer failure.</p> <p>It is also important to note that compliance with the RoLR plan is a best endeavours obligation. Therefore, if the circumstances of the RoLR event impede compliance with the obligations of the RoLR plan,</p>

	such as those experienced during a first tier retailer failure, the AER will take this into account in assessing participant compliance.
<p>RoLR plan participants</p> <p>The Energy and Water Ombudsman (Victoria) (EWOV) supported the inclusion of ombudsman schemes as RoLR plan participants.</p>	<p>The AER notes EWOV’s support for the inclusion of ombudsman schemes as RoLR plan participants. The AER considers it is essential that ombudsman schemes are included as RoLR plan participants, since the plan includes strategies on how to communicate with customers on their rights and obligations under the RoLR scheme. Therefore, the AER will include state and territory ombudsman schemes as RoLR plan participants.</p>
<p>Pre-event communications (AER obligations)</p> <p><i>Notification of a designated RoLR</i></p> <p>AEMO supports confirmation of a designated RoLR by the response time to a call notice or margin call. It does not support notification of an additional RoLR beyond the issuance of a default notice.</p> <p><i>Communication of call notices and margin calls</i></p> <p>AEMO considers that emails (from the AER and AEMO) concerning margin calls and call notices should be followed by a phone call or text.</p>	<p>The AER agrees with AEMO’s comments. The AER will amend the RoLR plan to reflect that the AER must inform AEMO of the identity of the designated RoLR no later than the issue of the default notice.</p> <p>The AER agrees with AEMO’s comments and will amend the RoLR plan to reflect that the AER and AEMO can follow-up emails concerning margin calls and call notices with a phone call or text message.</p>

<p><i>Pre-warning of a RoLR event to registered RoLRs, distributors and ombudsman schemes</i></p> <p>Submissions expressed divergent views regarding whether the AER should pre-warn RoLR plan participants (including registered RoLRs, distributors and ombudsman schemes) about a potential RoLR event.</p> <p>AEMO considered that the broad sharing of information may lead to or may unintentionally trigger a RoLR event. In contrast, EWOV considered that pre-warning of a RoLR event would give them time to prepare and put the necessary strategies in place to manage the potential increase in demand for their services.</p>	<p>The AER will determine whether registered RoLRs, distributors and ombudsman schemes should be forewarned about a potential RoLR event based on the circumstances of the event. As set out in the RoLR statement of approach, the AER will consult with the potentially failing retailer on relevant matters before it releases any information of a RoLR event, acquired under Part 6, Division 3 of the Retail Law or otherwise, such as:</p> <ul style="list-style-type: none"> ▪ whether the retailer is close to selling its customer base and ▪ whether there is a real likelihood of an injection of cash into the business.
<p>Pre-event communications (AEMO obligations)</p> <p><i>Information flows prior to a RoLR event</i></p> <p>AEMO does not support publishing the timings when it is to provide notification to the AER of events, but does support the development of arrangements through bilateral arrangements. AEMO notes there is no requirement to meet the timing requirements specified in the plan.</p>	<p>The AER considers it is useful for industry to understand the broad timings in which decisions will be notified between RoLR plan participants such as the AER and AEMO, and that such information is appropriately contained in the RoLR plan . This also provides for transparency in the RoLR scheme. The AER notes all RoLR plan participants, including the AER and AEMO, must use reasonable endeavours to comply with the RoLR plan. Further, the AER highlights that such timing arrangements have been made public for a number of years in the ESCV RoLR manual.</p>

<p>Post-event communications (AER obligations)</p> <p><i>RoLR notice</i></p> <p>AEMO and UED/Multinet consider that the RoLR notice should identify the fuels and jurisdictions affected by the RoLR event.</p> <p><i>Customer communication</i></p> <p>A number of submissions made suggestions about how the AER should communicate to customers following a RoLR event. In particular;</p> <ul style="list-style-type: none"> ▪ AGL considers the AER should ensure that any customer communication explicitly notes that RoLR cost recovery charges may apply (such as an upfront fee) where applicable. ▪ ActewAGL (retail) consider the RoLR event frequently asked questions should reflect that there is no retail price regulation for gas. ▪ EWOV suggests that affected customers be provided with details about the RoLR event in writing from the AER within an acceptably short timeframe (3 business days). EWOV believes that the AER is best placed to provide authoritative RoLR event communication 	<p>The AER agrees with AEMO and UED/Multinet that the RoLR notice should specify the affected fuels, markets and jurisdictions impacted. The AER will amend the RoLR notice template to identify this information.</p> <p>In response to AGL, the AER will ensure RoLR cost recovery arrangements and what charges may apply for the customers are clearly noted in any customer communication that follows a RoLR event.</p> <p>In response to ActewAGL (retail), the AER will amend their frequently asked questions to reflect that that there is no retail price regulation for gas.</p> <p>In response to EWOV, the AER does not consider it needs to provide a separate letter. However, it will require designated RoLRs and the failed retailer to include in their communication to customers the AER's website link and call centre number. This will ensure customers know to contact the AER if they want information from a government source.</p>
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<p>Post-event communications (AEMO obligations)</p> <p><i>NMI list reports</i></p> <p>AGL sought clarification about why the timeframe to provide an electricity NMI list report is different to the provision of gas MIRN/DPI reports.</p>	<p>The timeframes guiding the provision of NMI list reports and MIRN/DPI reports are informed by AEMO's RoLR procedures. This includes gas retail market procedures and NEM RoLR processes. The difference in timeframes reflects the difference that exists for both fuels in these procedures.</p>
<p>Post-event communications (industry obligations)</p> <p><i>Customer data (distributors)</i></p> <p>ActewAGL(distribution) and Envestra query why the RoLR plan requires electricity distributors to provide customer data sets but does not require gas distributors to do the same.</p> <p><i>Customer communication</i></p> <p>TRUenergy notes that in certain circumstances (particularly where the number of customers involved means the RoLR is required to absorb more than 100,000 customers) RoLRs may require additional flexibility, especially with the registration of the affected customers.</p>	<p>The obligation upon electricity distributors to provide customer data sets arises from AEMO's NEM RoLR processes. The RoLR plan simply captures this obligation.</p> <p>The AER notes TRUenergy's concern regarding large customer transfers subsequent to a RoLR event and the need for flexibility with requirements regarding the registration of affected customers. Under the RoLR plan, retailers are required to communicate to customers details about the RoLR event, within 25 business days of the RoLR event occurring. The AER notes that in some circumstances, for example where retailers take on a large number of customers, retailers may not be able to fully comply with the requirements in the RoLR plan. In these circumstances the AER may be flexible in regard to the timeframes for completing certain requirements but the AER notes that</p>

	such flexibility will be applied on a case-by-case basis.
<p>Post-event communications (ombudsman obligations)</p> <p><i>Ombudsman RoLR report</i></p> <p>EWOV supports the AER's request for a summary report from ombudsman schemes about customer issues within 60 business days.</p> <p><i>Liaison with the failed retailer/insolvency official, designated RoLRs, distributors, AER and AEMO</i></p> <p>EWOV supports an inclusion in the RoLR plan for the failed retailer/insolvency official, designated RoLRs, distributors, AER and AEMO to provide updates and information being provided to ombudsman schemes in the aftermath of a RoLR event.</p>	<p>The AER notes EWOV's support for the Ombudsman RoLR report. The 60 day requirement is necessary to enable the AER to include the issues identified by the report in its MCE RoLR report. The AER will also require in the RoLR plan to include an analysis of any open or resolved system issues.</p> <p>The AER agrees with EWOV that the RoLR plan should require participants to provide updates to the ombudsman about issues arising from the RoLR event. The AER considers ombudsman schemes need access to this information to assist them handle customer enquiries and disputes arising from the RoLR event. Therefore the AER will amend the RoLR plan to require RoLR plan participants to provide relevant information to ombudsman schemes.</p>
<p>RoLR exercises</p> <p>Submissions sought greater clarification regarding the scope and frequency of RoLR exercises. In particular:</p> <ul style="list-style-type: none"> ▪ AEMO recommends that desk-top style exercises be held every 	<p>The RoLR plan will clarify what is expected from RoLR plan participants through their involvement in RoLR exercises. The RoLR exercises will be desk-top, unless the AER determines there is a need to have a system run-through. In that event, participants will be given 6</p>

<p>12 months across both fuels and include all registered RoLRs, distributors and other relevant participants.</p> <ul style="list-style-type: none"> ▪ ActewAGL(retail) considers exercises should be more holistic and require testing of systems, processes and procedures (not just limited to desktop). ▪ ActewAGL(distribution) considers additional information is needed regarding what resources will be required for RoLR exercises. 	<p>month notice. It is likely, but not mandatory, that RoLR exercises will be run every 12 months - RoLR exercises will only be run on needs basis. RoLR plan participants will be given 3 months' notice of a RoLR exercise.</p>
<p>Data custodians</p> <p>Jemena and TRUenergy sought greater clarity regarding the AER's comments on data custodian arrangements. In particular, Jemena is unsure what is intended by the comment that further development of customer data arrangements will be progressed by AEMO.</p>	<p>In the Victorian, New South Wales and the Australian Capital Territory's gas markets, AEMO is the data custodian. In electricity, Victorian distributors are data custodians. However, under AEMO's B2B procedures, all distributors are required to hold customer data sets and are required to reconcile these data sets every 6 months. Therefore, customer data arrangements primarily exist in AEMO procedures. As such, if there needs to be any expansion of customer data arrangements, AEMO appears the appropriate party to consider it.</p>

B. Summary of amendments

B.1 RoLR guideline

Reference in final guideline	Change from draft guideline
Purpose of the RoLR guidelines (s. 1.1.5, p. 1)	A new provision outlining what processes the AER must follow under the Retail Law if it is to amend the guidelines.
Multiple RoLRs – standing instructions to AEMO (s. 2.2.4, p. 3)	Change in wording to clarify that the AER is unlikely to appoint one RoLR for all the connection points or gas distribution systems in a jurisdiction.
Multiple RoLR appointments (s. 2.3.5, p. 4)	A new provision to clarify that the AER will have regard to the RoLR designation criteria in addition to the other matters outlined in s. 2.3.
Information to be included in a RoLR register EoI (s. 4.1, p. 6-7)	A new provision stating that the AER may limit the type of customer a RoLR acquires on the basis of NMI classification rather than the definition of small and large customers contained in the Retail Law.
Time limits on RoLR cost recovery scheme applications (s. 6.1, p. 11)	An amendment to the provision to clarify when the nine month limit to submit an application for RoLR scheme preparation costs by a default RoLR appointed prior to the commencement date of the Retail Law would begin.

B.2 RoLR statement of approach

Reference in final statement of approach	Change from draft statement of approach
Default RoLRs – standing instructions to AEMO (s. 3.3, p. 6)	A new provision stating that the standing instructions to AEMO will outline which default RoLRs will be transitioned from jurisdictional regimes to the national regime, and which default RoLRs will be appointed and registered by the AER.
Additional RoLRs	A new provision stating that the AER may limit the type of customer a RoLR

(s. 3.4, p. 7)	acquires on the basis of NMI classification rather than the definition of small and large customers contained in the Retail Law.
Meeting RoLR criteria (s. 3.4, p. 8)	A new provision stating that, in the case of gas, in some instances the AER may consider registering additional RoLRs notwithstanding that those RoLRs may not have contracts in place for pipeline capacity and gas supply.
Area of registration (s. 3.5, p. 8)	A new provision stating that the AER will review TNI arrangements for accuracy every three years, or earlier if warranted (for example, creation of a new TNI).
Information flows (s. 4.3, p. 14)	An amendment to the provision to set out what financial information from the retailer the AER would consider when given short notice of a possible RoLR event.
General principles for the cost recovery scheme determination (s5.1, p. 18)	An amendment to the provision to provide further detail on how the AER would assess RoLR scheme preparation costs.
General principles for the distributor payment determination (s5.2, p. 19)	An amendment to the provision to provide more clarity of what the AER will consider when determining the allocation of the distributor payment determination.

B.3 RoLR plan

Reference to final RoLR plan	Change from draft RoLR plan
Background (cl. 1.1(a), p. 3)	Minor rewording of the provision to clarify the objective of the RoLR scheme.
Confidentiality and use of information (cl. 1.6m pp. 4-5)	A new provision which identifies the obligations placed upon the AER/ACCC and RoLR plan participants regarding confidentiality and disclosure of information.
Enforceability	An amendment to the provision, stating

(cl. 1.7 (b), p. 5)	that the AER will enforce the obligations set out in the RoLR plan in accordance with the AER's Compliance Procedures and Guidelines and Statement of Approach to Compliance.
Contacts (cl. 1.9, p. 5)	An amendment to the provision to provide for the inclusion of the contact details of each Minister. The AER notes that this information will not be made publicly available.
AER–Information flows prior to the RoLR event (Wholesale market) (cl.2.1(a) (i) & cl.2.1(b)(i), p. 7)	An amendment to clarify that the intent of the provision is to notify Ministers and energy departments as soon as possible, after the AER becomes aware a RoLR event may occur.
AER – Information flows prior to the RoLR event (additional RoLR appointment) (cl. 2.1 (c)(iii), p. 9)	An amendment to the provision which will require the AER to notify AEMO who the designated RoLR is upon the issue of the default notice, in the event a call notice or margin call was not issued.
AER – Information flows prior to the RoLR event (additional RoLR appointment) (cl. 2.1 (c)(v), p. 9)	A new provision which sets out that in the event the AER decides to appoint an additional RoLR, the AER may notify certain parties in addition to AEMO. These include Ministers and energy departments of participant jurisdictions, default RoLRs, distributors and ombudsman schemes.
AER: Information flows prior to the RoLR event (additional RoLR appointment) (cl. 2.1 (c)(vi), p. 9)	A new provision which establishes how the AER will communicate with the parties (set out by cl. 2.1(c)v) , in the event the AER chooses to notify them that the AER is appointing an additional RoLR.
AER: Information flows after the RoLR event (cl. 2.1(d)(i)(4), p. 10)	An amendment to clarify that the intent of the provision is to upload the RoLR notice as soon as possible on the website.
AER: Information flows after the RoLR event (cl. 2.1(d)(ii)(1), p. 10)	An amendment to clarify that the intent of the provision is to upload the RoLR consumer information as soon as possible after the RoLR event, including a questions and answers factsheet.
AER: Information flows after the RoLR	A new provision which requires the AER

event (cl. 2.1(d)(v), p. 11)	to notify relevant ombudsman schemes regarding matters which have arisen from the RoLR event which may affect the ombudsman scheme's handling of a customer complaint or dispute. A similar obligation has been imposed upon AEMO, designated RoLRs and distributors.
AEMO: Information flows prior to the RoLR event (cl. 2.2(a)(ii), p. 12)	A new provision which establishes how AEMO will provide advice to the AER when it believes a RoLR event is likely.
AEMO: Information flows prior to the RoLR event (wholesale market) (cl. 2.2(b)(ii)&(iii), p. 12)	Amendments to the provisions which sets out how AEMO will notify the AER regarding call notices, margin calls and default notices. The amendments also clarifies that the intent of the provision is for AEMO to provide notification to the AER as soon as possible when it believes a RoLR event is likely.
AEMO: Information flows after the RoLR event (cl. 2.2(c)(i), p. 13)	A new provision which requires AEMO to notify the AER when customer transfers for the RoLR event have been initiated in their metering and settlements systems.
AEMO: Information flows after the RoLR event (cl. 2.2(b)(iv)(2), p. 13)	A new provision which reflects that the AER will receive a 'transfers in progress RoLR report' from AEMO in accordance with the RoLR procedures.
Retailers: Information flows prior to the RoLR event (General) (cl. 2.3(a)(ii), p. 14)	An amendment to clarify that the intent of the provision is for the retailer to notify the AER as soon as possible after becoming aware of any event, circumstance or matter that may give rise to a RoLR event.
Failed retailer (or the insolvency official of the failed retailer): Information flow after the RoLR event (cl. 2.4(a)(i)(1)(b), p. 15)	A new provision which requires the failed retailer (or the insolvency official of the failed retailer) to notify the AER when it has sent written communication to the former customers of the failed retailer.
Failed retailer (or the insolvency official of the failed retailer): Information flow after the RoLR event (cl. 2.4(a)(ii)(2), p. 15)	Amendments to the provision to require: <ul style="list-style-type: none"> ▪ the failed retailer to provide written information in 'plain

	<p>English', rather than an 'accessible format'</p> <ul style="list-style-type: none"> ▪ the failed retailer to include in its written communication the AER's website address and the AER's RoLR event hotline number.
Failed retailer (or the insolvency official of the failed retailer): Information flow after the RoLR event (cl. 2.4(a)(iii), p. 17)	An amendment to the provision to require the failed retailer (or the insolvency official of the failed retailer) to clearly identify customers which are in receipt of any pension, health or social security payments or rebates.
Designated RoLRs : Information flows after the RoLR event (cl. 2.5(a)(i)(3), pp. 17-18)	<p>Amendments to the provision to require:</p> <ul style="list-style-type: none"> ▪ the designated RoLR to provide written information in 'plain English', rather than an 'accessible format' ▪ the designated RoLR to include in its written communication questions to the customer which seek to confirm whether the customer requires life support equipment or was on a hardship arrangement <p>the designated RoLR to include in its written communication the AER's website address and the AER's RoLR event hotline number.</p>
Designated RoLRs : Information flows after the RoLR event (cl. 2.5(a)(ii)(1), p.18)	An amendment to the provision to clarify what information designated RoLRs should send large customers.
Distributors: Information flows prior to the RoLR event (cl. 2.6(a)(ii), p. 19)	A new provision which sets out how a distributor will provide advice to the AER when it believes a RoLR event is likely.
Ombudsman schemes: Information flows after the RoLR event (cl. 2.7(a)(i), p. 20)	An amendment to the provision to broaden the scope of issues and parties the Ombudsman scheme may need to liaise with following a RoLR event.
Ombudsman schemes: Information flows after the RoLR event	An amendment to the provision to require the Ombudsman RoLR report to include

(cl. 2.7(a)(ii), p. 20)	an analysis of open or resolved systemic issues.
RoLR exercises: Scope (cl. 6.2(b), p. 24)	An amendment to the provision which clarifies that RoLR exercises will be a dual fuel exercise. However, the amendment also enables the AER to limit the scope of the exercise if deemed appropriate.
RoLR exercises: Frequency (cl. 6.3(b), p. 24)	An amendment to the provision which reduces the notification period of RoLR exercises from 6 to 3 months.
RoLR exercises: Participation (cl. 6.4(b), p. 24)	An amendment to the provision to provide an example of the type of assistance RoLR plan participants may be expected to provide to assist in the organisation of the RoLR exercise.
Templates: AER RoLR notice (cl. 7.1, p. 25)	Two amendments to the notice template to include two new fields—affected fuels and markets and affected states and territories.
Templates: AER RoLR event questions and answers factsheet (cl. 7.3, pp. 28-32)	Minor amendments to proposed questions and answers.