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By E-mail

ROLR REGISTRATIONS AND APPOINTMENTS

Origin Energy Retail Limited (Origin) welcomes this opportunity to respond to the Australian Energy Regulator's (the AER's) issues paper on Retailer of Last Resort (RoLR) registrations and appointments.

Origin has previously responded to the cost recovery approach issues paper in relation to the development of RoLR guidelines under the National Energy Consumer Framework (NECF). We respond to the specific questions raised in the issues paper below.

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

Origin would refer to the AER to pages 3 and 4 of our response to the RoLR cost recovery issues paper in relation to this question.

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

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

Origin agrees with the AER's assessment of the Retail Law that a default RoLR is constrained from registering as an additional RoLR within the distribution network for which it is already assigned as a default RoLR. This decision may preclude the default RoLR from making particular RoLR arrangements for specific classes of customers of a failed retailer. As experience develops under the NECF and the market for RoLR services matures, there may be opportunities for reform in the future; however Origin does not see this matter as core to appointment constraints.

Origin does not have further comment on other constraints on RoLR registrations and appointments.



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

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

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

The AER has identified the material issues associated with the three broad criteria established under the Retail Law. In terms of importance or ranking of the criteria we consider that all are of critical importance. To the extent they can be ranked, Origin believes that the following weighting might apply to each:

1. Financial resources (40%)

For the purposes of our response, it is assumed the default retailer has the financial resources to satisfy the criteria. For an additional RoLR, financial capacity and the ability to demonstrate this is of high importance, since the other broad criteria are secondary if the additional RoLR is unable to meet its obligations in the market once customers of a failed retailer have migrated to its licence.

2. Suitability (30%)

We consider this criterion to have equal weighting with organisational and technical capacity, however, in terms of priority, it should be considered first. Our reasoning is based on (a) the capacity of the retailer to accept the number of customers it proposes to service following a RoLR event, (b) whether or not it is active in the segments relevant to the RoLR event (class of customer), (c) whether it has the ability to operate in the jurisdiction or network area affected and finally (d) if it can procure gas where there is no short term or wholesale trading market. All of these issues need to be considered ahead of organisational and technical capacity.

3. Organisational and technical capacity (30%)

Practically, this criterion is of high importance. However, in terms of assessment, it would be considered after financial resources and the suitability of an additional RoLR.

Consideration of other matters

The AER would also assess the proposed terms and conditions of an additional RoLR and whether these are appropriate for a RoLR event. Origin believes this will occur on a routine basis as part of the registration of an additional RoLR under a firm, or non-firm offer.



Q7. Stakeholders' comments are sought on:

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

Origin agrees that frequent turnover of default RoLRs would increase the cost of the RoLR scheme. This concern needs to be balanced against the benefits that alternative default RoLRs may provide, which would further influence additional RoLR offers. We anticipate that at a minimum, three years would be the type of timeframe anticipated for EoIs to be reissued.

The AER has identified the two chief reasons to review default RoLR arrangements where the NECF is in force:

- The failure of the default retailer itself; or
- A merger between one or more default retailers in a relevant NECF jurisdiction.

As these events occur, they would clearly trigger a review of the default RoLR arrangements.

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

Origin believes that the appointment of default RoLRs on a TNI basis may be more conducive to the appointment of additional RoLRs (or even default RoLRs within a local retailer area). If an alternative is adopted to the (current) general practice of basing default RoLR assignment on local retailer area a further question arises as to how the AER would determine who should be the default RoLR (if separate default RoLRs were assigned within a local retailer area or distribution network by TNI for example). We would appreciate the opportunity to consider this issue further and discuss with the AER if possible.

Origin is not supportive of a single default retailer for a jurisdiction. In the absence of additional RoLRs being appointed on a firm/non-firm basis, this approach would place significant risk on a default RoLR for a jurisdiction with a large population (for example New South Wales).

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

Q.10 Stakeholders' views are sought on the length of the initial term of registration of default RoLRs in first start jurisdictions.

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

Practically, Origin believes that the current default RoLR assignments would continue for a period of time following the adoption of the NECF by a specific jurisdiction. Given the many other challenges associated with NECF implementation and the relatively low likelihood of a coincident RoLR event, maintaining the status quo for a period of time would be sensible.

Origin believes further analysis of alternative default RoLR appointment options is required prior to setting a term on the initial registration of default (current) RoLRs in a first start NECF jurisdiction. For example, while the TNI approach may have merit, it may add cost to the RoLR scheme (e.g. event management). The costs and benefits of an alternative approach need to be examined in further detail. Origin does consider however this consultation to be part of this process and will be concluded prior to NECF adoption by one or more jurisdictions.

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

There may be an advantage to register additional RoLRs on a basis consistent with the registration of default retailers (as it could reduce the cost of the RoLR scheme). However, additional RoLRs should be granted flexibility in respect of the basis of assignment as this will increase the likelihood of their participation. Since additional RoLRs have the ability to select the number and class of customers they would offer RoLR services to, the basis of registration may not be as important as for the default RoLR. For an additional retailer, appointment on the basis of customers associated with a TNI may offer the most flexibility (but could add complexity as discussed above).

Q13. Do stakeholders support the two categories proposed for additional RoLR registration?

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

Q15. How long should a firm offer apply?

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

Origin largely agrees with the two categories for additional RoLRs described by the AER. Further categories will most likely be variations on the two broad categories identified. A firm offer should apply for a limited period of time as suggested by the AER (three



months on page 21 of the issues paper). Experience over time will assist the AER and industry in determining the appropriate interval. Given that wholesale market conditions are the likely trigger, a retailer making a firm additional RoLR offer would seek the flexibility to amend and update this offer relatively frequently.

Standardising the process will reduce unnecessary administrative burden on the regulator and industry. A standard form application may be appropriate, but should an additional RoLR with a firm offer wish to lodge additional information/conditions, the process should allow for such flexibility.

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

Q18. Do stakeholders agree with the extra conditions proposed for the registration of additional RoLRs?

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

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

Conceivably, a default RoLR may determine additional conditions on their registration, however the default RoLR would not be able to limit the number of customers (for example) for which it would act as RoLR (depending on the basis of assignment of customers to a default RoLR). Such conditions would most likely be attached to registrations in the event of concerns being held by default RoLRs with respect to the adequacy and effectiveness of cost recovery.

The extra terms and conditions proposed are useful suggestions, on the basis that additional RoLRs are able to apply them at their discretion. They would serve to reduce the risk faced by additional RoLRs by reflecting market conditions at the time of a RoLR event.

The AER will need to balance simplicity to improve the efficiency and speed of appointment of additional RoLRs against the individual circumstances that face additional RoLRs at the time of an event. Standard terms and conditions are likely to cover the material criteria that the AER would assess in appointing additional RoLRs. It is in the interests of additional RoLRs to assist the AER to make quick assessments in response to a RoLR event. Origin would suggest that some streamlining of conditions be encouraged at this early stage, with capacity for other terms and conditions to be included if an additional RoLR wishes to do add these, conscious that complex terms and conditions outside of the standard or core terms may result in a failure to be appointed at the time of a RoLR event.

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

Disclosure of information such as prudential limits (as suggested on page 24 of the issues paper), would likely discourage additional RoLR participation. If a term or condition attached to registration is clearly of a commercial nature, it should not be published on the RoLR register. Other terms and conditions will be less controversial and will therefore be published. The AER will to some extent need to address this matter as registration terms and conditions are presented to it. Comprehensive disclosure may significantly discourage additional RoLR participation and the AER will need to assess the benefits of disclosure against the cost of reduced participation if this emerges as a material issue.

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

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

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

The review period is a similar matter to the EoI process described on page 18 of the issues paper. A three year review period seems reasonable at this stage. For default RoLRs, Origin considers that the review process should not impose additional administrative and compliance burdens on the default RoLR or the AER.

The reasons to review the registration of a default RoLR in addition to those discussed on page 18 of the issues may include:

- Substantial loss of market share by the default RoLR, influencing its capacity to continue in this role; or
- A significant re-orientation in business strategy away from a particular customer segment or to another part of the energy supply chain by the default RoLR.

Origin agrees with the proposed two year review period for additional RoLRs with non-firm offers; there may be advantages to align the review date with the review period for default RoLRs, given the nature of the offer (non-firm).

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

- RoLR criteria
- RoLR cost recovery
- The imminence of the RoLR event

in determining RoLR appointments.

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

- Event management
- Promotion of competition.

The RoLR criteria are likely to be the most important factor, as a lack of understanding of a default or additional RoLR's capacity to accept customers of a failed retailer may create a cascading RoLR event. Practically, imminence of a RoLR event will also be important in making an appointment; however circumstances at the time of the event will largely determine the ability of the AER to appoint default and additional RoLRs. Minimising the cost of a RoLR event is important, but should be secondary to preserving the integrity of the market and the risk of cascading retailer failures. If for example the AER placed emphasis on appointing additional RoLRs with the lowest, or no costs and subsequently this retailer (or retailers) also failed, the costs of the default RoLR would likely higher than would otherwise have been the case (along with the risk of a default RoLR risking failure).

Similar arguments would apply where the AER considered appointing a retailer with the smaller market share (where equivalent RoLR terms and conditions were in place), noting the valuable objective of enhancing retail market competition.

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

- (a) Lower RoLR event costs
- (b) Event management
- (c) Long term competition
- (d) Any other matters

when considering RoLR appointments.

Q28. If a RoLR appointment were to result in a retailer needing further credit, what information should satisfy the AER that the retailer is able to secure further credit? What is an appropriate length of time for the retailer to secure any additional credit?

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



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

(a) From retailers lodging an Eol

(b) From failing retailers under contingency events?

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

With respect to question 27, the circumstances of each RoLR event may alter the relative importance the AER would seek to attach to these factors. As the AER identifies on page 29 of the issues paper, the objectives of enhancing long term competition may be in conflict with the relative complexity of event management. The suitability of RoLRs to maintain continuity of customer energy supply should be established at the time, or leading up to the event, however Origin believes that satisfaction of suitability criteria (financial preparedness and technical capabilities) should take primacy over the factors listed under question 27, even where the AER has confidence that RoLRs have the capacity to take on customers of the failed retailer.

In terms of information provided by AEMO being adequate and of sufficient detail for retailers to prepare an Eol, much of this will depend on the accuracy of data held by AEMO in relation to connection points of the failing/failed retailer. As noted in our response to the cost recovery issues paper for RoLR events, past experience has demonstrated that not all retailers maintained accurate site details of customers affecting the efficient transfer of customers.

In relation to question 31, 24 hours appears to be a constrained timetable where longer notice is available in relation to a pending RoLR event. If time permits (given that each RoLR event is likely to be unique in its circumstance), 48 or 72 hours to respond where longer notice is available to the AER would be a preferable timeframe from a prospective RoLRs point of view. For immediate or little notice events, Origin understands this would not be possible.

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

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

Where there is scope (advanced notice and multiple additional RoLR offers) there is likely to be merit in appointing multiple RoLRs within a jurisdiction/local retailer area (e.g. grouping by TNI). Origin believes the participation of additional RoLRs (with firm and non-firm offers as applicable) should be encouraged as it will allow the development of a "market" for RoLR services and distributes the risk of a retailer failure among different market participants.

The AER would need to consider arrangements for a large retailer failure which may involve the standing instruction to AEMO described on page 34 of the issues paper and the allocation of customers to additional RoLRs and/or other large retailers (to minimise the risk of cascading retailer failure at times of sustained high wholesale market prices).



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

There may be benefit in applying similar arrangements to a default RoLR failure as to those applied to "large retailers", raised in question 33 of the issues paper. Additional RoLRs with firm offers should have the opportunity to supply customers of a failed default RoLR in addition to the remaining default RoLRs. Again, the specific details of such an approach will require some consideration, however this approach could apply to both jurisdictions such as Victoria (with multiple default RoLRs) and South Australia (one default RoLR). Origin believes the current Victorian approach could be enhanced if additional RoLRs with firm offers were able to participate.

Origin would welcome further discussion on the contents of this submission and the development of the appointments framework and guideline for RoLRs. Please contact me in the first instance on (03) 8665 7712.

Yours sincerely

[SIGNED]

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