



Draft for preliminary consultation

Retailer authorisation guideline

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Glossary and definitions

AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ACCC	Australian Competition and Consumer Commission
ASIC	Australian Securities and Investments Commission
Associate	has the same meaning it would have under Division 2 of Part 1.2 of the <i>Corporations Act 2001</i> (Cth) if ss. 13, 16(2) and 17 did not form part of that Act
Control	is defined as in s. 50AA of the <i>Corporations Act 2001</i> (Cth)
De facto director	includes any person who has not been validly appointed as a director but who acts in the position of a director
Director	includes any person appointed to the position of director, or who is appointed to the position of an alternate director and is acting in that capacity, regardless of the name that is given to their position
Insolvency official	is defined in s. 602 of the Retail Law to mean a receiver, receiver and manager, administrator, provisional liquidator, liquidator, trustee in bankruptcy or person having a similar or analogous function
NEM	National Electricity Market
Officer	is defined as in s. 9 of the <i>Corporations Act 2001</i> (Cth)
Retail Law	National Energy Retail Law
Retail Rules	National Energy Retail Rules
RoLR	retailer of last resort
Shadow director	includes any person who has not been validly appointed as a director but who directors are accustomed to act in accordance of the instructions or wishes of

Introduction

This guideline is designed to help applicants understand the process for energy retailer authorisations and for the transfer, surrender and revocation of retailer authorisations. It explains the procedures the Australian Energy Regulator (AER) follows when assessing applications for a retailer authorisation (and for their revocation, surrender or transfer) and sets out the information required to assess an authorisation application.

We advise you to consult with us prior to and while preparing an application for a retailer authorisation. We may run information sessions to provide advice and guidance on entering the energy market as a retailer.

Except where information is specifically requested in the information requirements (see schedule 1, page 28), this guideline is intended for guidance only.

The regulatory framework

The AER is an independent statutory authority that is part of the Australian Competition and Consumer Commission (ACCC) under Part IIIAA of the *Trade Practices Act 1974* (Cth).

The AER is responsible for the economic regulation of the electricity networks in the national electricity market (NEM) and gas pipelines in jurisdictions other than Western Australia. It also monitors the wholesale electricity and gas markets and is responsible for compliance with and enforcement of the National Electricity Law and Rules and the National Gas Law and Rules.

The AER is responsible for the enforcement of the National Energy Retail Law (Retail Law) and National Energy Retail Rules (Retail Rules) under the National Energy Customer Framework. This includes, or will include, responsibility for the regulation of electricity and gas retail markets (other than retail pricing) in most jurisdictions. The framework does not apply to retail energy markets in Western Australia, the retail electricity market in the Northern Territory and some retail gas markets.

The statutory objective of the Retail Law is to promote efficient investment in and efficient operation and use of energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply of energy.

Further information about the AER and its role can be found on the AER website at www.aer.gov.au.

The requirement to be authorised

The Retail Law prohibits a person from engaging in the retail sale of energy unless the person has obtained a retailer authorisation or is exempt from the requirement to obtain an authorisation. A breach of this provision attracts a civil penalty. The AER is responsible for issuing and revoking retailer authorisations.

An authorisation allows the holder to engage in the retail sale of the specified form of energy (electricity, gas or both) in all participating jurisdictions and to all contestable classes of customers.

Exemptions

Some businesses engaging in energy retailing activities are exempt from the requirement to hold a retailer authorisation. Exemptions can be granted by the AER on an individual basis or can be deemed to apply on the basis of a class of persons. Exemptions may also be issued by jurisdictions.

For deemed exemptions, we cannot determine for an individual whether or not they fall within the class of exempted persons. The entity engaging in the activity must take its own legal advice, and if necessary seek either an individual exemption or a retailer authorisation. Further information on exemptions and a link to the *Exempt selling guideline* can be found at [*link to be provided in final guideline*]. The *Exempt selling guideline* set out the circumstances when it may be appropriate for an entity to seek exempt seller status.¹

Entry criteria

Persons seeking a retailer authorisation must demonstrate their capacity to meet the obligations of an energy retailer under the Retail Law and Retail Rules. We must assess an application against the following entry criteria set out in s. 503 of the Retail Law:

- Organisational and technical capacity.
- Financial resources.
- Suitability.

The AER may only grant a retailer authorisation where you satisfy all of the entry criteria. If the criteria are not met, we may approve an authorisation application subject to conditions relating to satisfaction of the entry criteria. In these circumstances, the authorisation would take effect after all conditions are satisfied.

Our approach to applying the entry criteria is set out in this guideline.

Consequences of retailer authorisation

The enforcement and compliance framework in the Retail Law applies to holders of retailer authorisations. You must be able to comply with the Retail Law and Retail Rules, as well as any relevant provisions of the National Electricity Law and Rules, National Gas Law and Rules and jurisdictional energy legislation, prior to commencing retail operations.²

¹ At the time of writing, an exempt selling guideline is not available. A draft is expected in June 2010.

² The AER considers it is restricted to assessing the ability of an applicant to comply with energy legislation administered by it. It does not, therefore, intend to consider readiness or ability of the retailer to comply with jurisdictional obligations except where they affect the applicant's ability to meet

The AER will monitor retailers' compliance with obligations under the energy laws that it administers. If a retailer fails to meet its obligations, the AER has a range of options including revocation of the authorisation.

The AER's approach to enforcement and compliance is set out in a statement of approach available at [*link to be provided in final guideline*].³

obligations under the Retail Law, Rules or Regulations. Consequently, the AER will not consider an applicant's readiness to meet jurisdictional obligations such as community service obligations and gas safety cases.

³ At the time of writing, a statement of approach is not available. A draft is expected in late 2010.

Part 1: AER process

Applications for authorisation must be submitted both in writing and electronically via email.

Applications should be posted to:

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

And emailed to: AERInquiry@aer.gov.au

The subject line of the email should state 'Application for retailer authorisation: Attn: General Manager, Markets Branch'.

We will acknowledge all applications made by email. We will receipt all applications and provide details of a contact person at the AER who will respond to any inquiries regarding your application.

Information provided must be current

The information you supply in your retailer authorisation application or application for transfer of an authorisation must represent your current position and not a projection of what your position will be when the authorisation (or transfer) takes effect. This applies except where projections are explicitly sought.

Registration with the Australian Energy Market Operator

You may apply to us for a retailer authorisation before you apply for registration with the Australian Energy Market Operator (AEMO) or before such registration is completed. You are prohibited, however, from selling energy to customers unless you are registered with AEMO. We may exchange views, documents, data and information with AEMO when assessing your application/s.

Dual fuel, gas or electricity

You must specify whether you are seeking a retailer authorisation for the sale of gas, electricity or both. If you are seeking to be a dual fuel retailer, this can be facilitated through separate authorisations for electricity and gas retail activities or a single authorisation covering all energy retail activities.

If you are seeking separate authorisations for electricity and gas retail activities, two applications must be submitted. Much of the information required under each application will be the same, however, and you need only supply this information once.

If you apply for a single authorisation to cover all energy retailing activities, you must clearly indicate what information is relevant to either electricity or gas retailing, or both. A separate risk management strategy, for example, should be provided for each activity.

Public consultation process

We will publish a notice on our website that a retailer authorisation application has been received and setting out the consultation process. The notice may contain the application in its entirety or details from it.

Any matters you identify as confidential will not be published if we agree that such information is confidential. You should clearly identify the information and documents that are the subject of the confidentiality claim. Please refer to the *ACCC–AER information policy: the collection, use and disclosure of information* on our website under ‘Publications’ for further information on the treatment of information provided to us.

The consultation period will run for at least 20 business days from the date set in the notice. We must consider all submissions received within the consultation period before a decision can be made on the application.

During the consultation period we may consult with industry participants, organisations and individuals. We may ask questions and seek documents from third parties relating to the application.

Conditions

We may impose conditions on a retailer authorisation relating to satisfaction of the entry criteria. An authorisation will only take effect once conditions attached to its grant are satisfied. If the conditions are not satisfied within three months (or the timeframe as extended by the AER), the application lapses.

If we impose conditions on your authorisation, you will be given notice of this. A failure to formally accept the conditions may result in your application being refused (see ‘grounds for refusal’ below). Details on the appropriate format for the formal acceptance of conditions will be provided to you if we impose conditions.

AER decision making

Our decision to grant or refuse a retailer authorisation is made by assessing an application against the criteria set out in the Retail Law. In assessing the application, we are guided by the objective of the Retail Law set out earlier.

We will not commence processing your application until all required information has been provided. We aim to make a decision within 12 weeks of receiving all relevant information.

You will be given notice of the AER’s decision. If the application is granted, you will also be given notice of any conditions which may be attached to the authorisation. AEMO will also be given notice of the decision to grant a retailer authorisation. If the application is refused, a statement of reasons will be provided setting out why the entry criteria were not satisfied.

When you are given notice that your authorisation is granted, the notice will specify which form of energy (gas or electricity or both) you are authorised to sell. If you wish to sell a form of energy not covered by the authorisation, you must apply for a separate authorisation. Your authorisation cannot be changed to authorise the selling of another form of energy.

Grounds for refusal

We will refuse an application if there has been:

- A failure to meet entry criteria.
- Provision of false or misleading information.

Providing false or misleading information in an application for retailer authorisation is a serious offence under the *Criminal Code* (Cth). The maximum penalty for such an offence is 12 months imprisonment.

- Failure to provide required information or meet any conditions attached to a retailer authorisation within the stipulated timeframe.
 - If we give you a notice imposing conditions on your authorisation, you must accept the conditions within 20 business days of receipt. We may extend this response period if we consider it necessary. If you do not respond within the stipulated period, your application is deemed to be refused.
 - If you respond to the notice accepting the conditions, but after a period of three months you have not shown that the conditions have been satisfied, then your application is deemed to be refused.
 - Prior to giving you notice stating that we are imposing conditions on your authorisation, we may consult with you to discuss whether the three month period to satisfy conditions is feasible in your circumstances. We may extend this period if we consider it appropriate.

The Retail Law also provides, under s. 653, that we can refuse an application where the applicant (or an associate) has previously triggered a retailer of last resort (RoLR) event under the Retail Law. The AER will not automatically deny an application from such an applicant, but will subject it to close scrutiny. For further details, see section 2.1 ‘Organisational and technical capacity criterion’ (page 9).

If we refuse an application, you will be given written notice stating the reasons for refusal. A notice of the decision will also be placed on our website.

Withdrawal of application

An application may be withdrawn in writing at any time before it is approved by us. If you withdraw your application and subsequently change your mind, you must submit a new application.

Duration

Retailer authorisations do not have expiry dates. A retailer authorisation will continue indefinitely unless it is revoked or surrendered.

Dormant retailer authorisations

A retailer authorisation will continue in force even if you are not actively retailing. As the holder of a dormant authorisation, you will still be required to comply with all the obligations of a retailer, including all information and reporting requirements. You may also be subject to targeted audit or compliance assessment processes undertaken by the AER as part of its compliance monitoring role (see Part 12 of the Retail Law).

The AER may place a greater focus on auditing and assessing holders of dormant authorisations at the time they begin or resume retailing. This will occur to ensure that appropriate systems and processes remain in place to meet the obligations on an energy retailer under energy laws.

Amendment

We may amend a retailer authorisation by either adding or removing information. Such amendments are described in the legislation as ‘alterations’ and will be used for situations such as a change of your business name. Amendments may be initiated by you or the AER. When initiated by the AER, the amendments must be agreed to by you.

Public register of authorised retailers and exempt sellers

The Retail Law requires us to maintain a public register containing details of authorised retailers and exempt sellers. Copies of retailer authorisations will be made available on the public register on our website: www.aer.gov.au/publicregister. Exempt sellers who hold individual exemptions or registered exemptions will also appear on the public register, but exempt sellers deemed to be part of an exempted class without any requirement for registration will not appear. The public register will include a list of the classes of persons for whom deemed exemptions are in force, and a list of the classes of persons for whom an exemption is registrable. Please refer to the *Exempt seller guideline* available at [*link to be provided in final guideline*] for a description of exempted classes of sellers.⁴

Entity to seek retailer authorisation

While aspects of your retailing role may be contracted out, it is not possible to contract out the entirety of your function of selling energy to customers. We may require a copy of the contract/s you have with third parties regarding aspects of your retailer activities.

Information requirements—general particulars

The AER requires the following information to be provided in an application for authorisation:

- 1 Your legal name.
- 2 Your trading name if different to your legal name.

⁴ At the time of writing, an exempt selling guideline is not available. A draft is expected in June 2010.

- 3 ABN or ACN.
- 4 Registered address for correspondence.

We will verify this information with the Australian Securities and Investments Commission (ASIC).

- 5 Nominated contact person, including their position in the organisation and contact details.
- 6 The form/s of energy for which the retailer authorisation is sought.
- 7 Date you intend to commence retail operations.
- 8 Nature and scope of the operations you propose to conduct.

An authorisation covers energy retailing activities in all participating jurisdictions to all contestable classes of customers. However, some obligations (for example, participation in ombudsman schemes) accrue only when retailing in certain jurisdictions and to certain customer classes. The AER therefore requires information on:

- 9 The jurisdictions in which you intend to retail energy.
- 10 The type of customers you intend to supply (for example, small customers, small market offer customers or large customers as defined in s. 105 of the Retail Law).

Part 2: Entry criteria

You must satisfy three entry criteria for us to grant a retailer authorisation. These are:

- Organisational and technical capacity.
- Financial resources.
- Suitability.

We require you to provide information to us to demonstrate that you meet the entry criteria, and can therefore meet the obligations associated with being an energy retailer. You are advised to keep these obligations in mind when responding to the entry criteria and when providing information to support your application.

2.1 Organisational and technical capacity criterion

You must demonstrate that you possess the necessary organisational and technical capacity to hold a retailer authorisation and carry out the functions of a retailer. Your capacity will be assessed by looking at your technical and industry experience, technical operations and human resource capacity. The information you provide should demonstrate that you have the ability to comply with regulatory obligations imposed on retailers, as well as the ability to administer business processes.

If you have previously held an energy retailer authorisation or licence in any Australian state or territory, please provide details of this. If you currently hold an energy retailer authorisation or licence in a non-participating jurisdiction (for example, Western Australia, or the Northern Territory for electricity), please provide details of this.

Your application should include a summary of the skills and experience of your key officers. We would expect your key organisational figures to have experience in the energy market and in the operation of a viable business. We will also require you to provide details of any retailing and/or energy experience of a person holding 20 per cent or more of any class of shares or any instrument or right convertible into, exchangeable for or giving the person the right to acquire 20 per cent or more of any class of shares in the applicant.

We will require you to provide a risk management strategy (including insurance arrangements) covering both operational and financial risks.

We will also require you to provide a compliance strategy to demonstrate that you have established, or are in a position to establish, procedures to comply with obligations under the national regulatory framework and state/territory energy regulatory arrangements. The Australian standard on compliance programs (AS 3806-2006) may be a useful reference point to assist you in developing your compliance strategy. Detailed compliance plans and systems are required to be in place prior to you commencing activity as a retailer. Where this has not occurred at the time of applying for a retailer authorisation, it will be made a condition of the granting of an authorisation.

The compliance strategy should include complaint and dispute resolution procedures that are consistent with the Australian standard on complaints handling (AS ISO 10002-2006).

Your application should include details of all employee training policies and programs that you have in place or propose to put in place. This should include training policies regarding identification of hardship customers. Your employees (and any third party contractors that have contact with your customers) should be able to identify hardship customers and appropriately manage issues related to hardship customers. A customer hardship policy must be developed and submitted to us within three months of a retailer authorisation being granted. Although not required by law, we would also encourage applicants to have in place training programs or strategies focussing on marketing.

We will not require you to demonstrate your ability to have reliable interaction with the wholesale market and technical requirements under the national framework. These matters will be assessed (or will already have been assessed) by AEMO as part of the registration requirements. However, we expect that you will have considered these issues and they will be factored into your business plan. If you have gained registration with AEMO prior to receiving a retailer authorisation, we will take this into consideration in assessing your organisational and technical capacity.

If you (or an associate) have previously triggered the RoLR provisions of the Retail Law or equivalent state/territory legislation, but are now applying to be granted a new retailer authorisation, your application will be closely scrutinised against the organisational and technical capacity criterion. This will also be the case where you have previously transferred or surrendered an authorisation or licence in circumstances where if not done, triggering of RoLR provisions would have been likely. If you have previously transferred or surrendered a retailer authorisation in these circumstances, it may demonstrate that you do not possess the ongoing ability to carry out retailer functions and are not a suitable person to be granted a retailer authorisation.

Under s.653 of the Retail Law, where you or an associate have previously triggered a RoLR event under the Retail Law, we may grant a retailer authorisation on the condition that you pay part or all of the costs of the RoLR event.

Information requirements – organisational and technical capacity

The AER requires the following information to be provided in an application for authorisation:

- 1 Details of your experience in the energy market.
- 2 Details of previous experience as an energy retailer and retailer authorisations or licences previously held in other jurisdictions or currently held in non-participating jurisdictions (for example, Western Australia, or the Northern Territory for electricity), specifically:
 - 2.1 Date and location of previous operations.

- 2.2 Form/s of energy sold.
- 2.3 Scale of operations (including the number and size of customers).
- 2.4 Explanation of which activities were conducted in-house and which were contracted out to third parties.
- 2.5 Outline the relevance of your previous experience to the requirements of the Retail Law and other applicable instruments.
- 3 Details of general retail experience in another area (if any).
- 4 Details of retail and/or energy experience of a person holding 20 per cent or more of any class of shares or any instrument or right convertible into, exchangeable for or giving the person the right to acquire 20 per cent or more of any class of shares in the applicant.
- 5 Details of any situation/s where you (or an associate) have previously triggered the RoLR provisions of the Retail Law or equivalent state/territory/foreign legislation, or have transferred or surrendered an authorisation or licence in circumstances where if not done, triggering of RoLR provisions would have been likely.
- 6 An organisation chart showing the structure of your organisation.
- 7 A summary of qualifications, technical skills and experience of your officers, and the relevance of those skills and experience to meeting the requirements of the retailer authorisation. You must demonstrate your capability to work in the energy industry.
- 8 The number of employees, broken down by business unit or other relevant classification.
- 9 Details of your human resources policy regarding employee qualifications, including:
 - 9.1 Experience and technical qualifications of employees for the operations they will carry out.
 - 9.2 Relevant industry licences or qualifications.

- 10 Details of all employee training programs and training policies (including for marketing and the identification of hardship customers) that are in place or that you propose to implement.
- 11 If you have been in existence for more than 12 months you should provide a business plan, including but not limited to: strategic direction and objectives, identified opportunities in the market place and forecast results.
- 12 If you have been in existence for less than 12 months and have not yet released audited financial statements, you should provide:
 - 12.1 Budgeted financial statements for the next three years.
 - 12.2 A comprehensive business plan, including but not limited to: strategic direction and objectives; identified opportunities in the market place; forecast results; benchmarks and the impact of differing assumptions or scenarios on your financial position.
- 13 Details of Quality Assurance accreditations you hold (if any).
- 14 A copy of your compliance strategy:
 - 14.1 Demonstrating your knowledge and understanding of the obligations imposed on authorised retailers and all statutory, industry and technical requirements (including the requirement to have in place a hardship policy).
 - 14.2 Outlining how all retailer authorisation obligations and statutory, industry and technical requirements will be met; and how you will comply with applicable Retail Law and Retail Rules requirements.
 - 14.3 Including all complaint and dispute resolution procedures.
- 15 A copy of your risk management strategy covering both operational and financial risks.
- 16 You are encouraged to provide any additional information to support your application which demonstrates your ability to manage risk and operate in accordance with the Retail Law's objectives, particularly the long term interests of consumers.
- 17 Details of insurance arrangements, which must be appropriate for the scale of activities to be conducted under the retailer authorisation.

- 18 Where you may be relying on a third party to provide staff and resources to meet the technical requirements of your retailer authorisation or to fulfil retail roles (such as phone centres or billing), you must:
 - 18.1 State all functions and activities you propose to outsource.
 - 18.2 Provide details of any formal agreement/s to provide services, including confirmation that the third party possesses relevant technical competencies to conduct the proposed activities.
 - 18.3 Provide a summary of the third party's experience in and knowledge of the relevant area.
 - 18.4 Provide evidence of the third party's technical capacity to meet relevant obligations, including any relevant accreditations.
- 19 Evidence of any steps taken to obtain membership of a recognised energy industry ombudsman scheme in the jurisdiction/s in which you intend to retail energy to small customers.
- 20 If applicable, you should provide evidence of your prudential arrangements in the wholesale gas or electricity markets, particularly details of your registration with AEMO.
- 21 You are encouraged to provide any additional information that will assist us in considering your past performance. We may contact relevant people and organisations to verify the information provided.

2.2 Financial resources criterion

In line with the objective of the Retail Law, we must be satisfied that prospective retailers have (or have access to) adequate financial capacity to provide reliable retail services to customers and maintain the integrity of energy wholesale markets.

We will assess whether you have demonstrated a financial capacity to take on the role of energy retailer for a period of 12 months (i.e. the ability to operate for a period of 12 months without reliance on customer takings).

To meet the ‘financial resources’ criterion you must demonstrate your capability to meet the following retailer financial obligations:

- Make energy purchases in wholesale energy markets.
- Procure and pay for network services for your customers, and meet any credit support requirements.
- Provide retail supply services to your customers, in particular billing services.

We will also consider whether you have sufficient financial resources to meet other obligations of retailing such as business-to-business systems and participation in energy ombudsman schemes (where relevant).

To demonstrate that you are a going concern, we require you to submit financial statements for the past three years. If you are a new entrant and do not have financial statements going back to this period, you should provide details of bank guarantees.

Evidence of your credit rating from agencies such as Standard & Poor’s, Fitch or Moody’s may assist your application, but are not essential. If you do not have a credit rating, the application and authorisation process may take longer. While credit ratings may assist our consideration of this criterion, we will place greater weight on evidence of funds and ability to repay debt. We will use this information to assess your resilience (for example, your ability to continue operating in circumstances of a low customer base and/or high wholesale prices).

In considering your financial resources, we will also take into account existing AEMO prudential requirements. We will work with AEMO to ensure our assessment of your ability to make energy purchases in wholesale energy markets takes account of AEMO’s prudential requirements. If you are already registered with AEMO, this may facilitate our consideration of your ability to satisfy the financial resources criterion.

You must demonstrate that you are able to procure and pay for network services for your customers. This includes the ability to pay distribution use of system charges to electricity distributors and/or reference tariffs to gas distributors.

We must be satisfied that you are able to provide adequate credit support to distributors in accordance with the requirements of the National Electricity Rules and National Gas Rules (as applicable).

We require incorporated entities to provide a written declaration from your director/s that they are unaware of any factor that would impede your ability to finance your

energy retailer activities under the authorisation for the next 12 months. For unincorporated applicants, a written declaration to this effect should be provided by the person/s in effective control of the business.

Generally we will only require financial documents relating to the company making the application and written declarations from the director/s of that company (or the person/s in effective control of the business). However we may also request this information from parent or related companies if we consider it necessary.

We may also undertake checks with the National Names Index on the ASIC website.

Our assessment of financial viability is a one-off entry test designed to satisfy us that an applicant's retailer authorisation application should be approved. It should not be relied upon as an indication of a retailer's ongoing financial viability or profitability.

It is not the AER's role to make ongoing financial assessments of a retailer's financial viability or provide comfort about the financial capacity of retailers that have commenced operations. Ongoing prudential assessments are undertaken by AEMO to ensure retailers have sufficient financial capacity to operate in the relevant wholesale markets.

Information requirements – financial resources

The AER requires the following information to be provided in an application for authorisation:

- 1 Copies of your audited financial reports for the past three years including:
 - 1.1 All financial statements required by the accounting standards.
 - 1.2 Notes to financial statements (disclosure required by the regulations, notes required by the accounting standards, and any other information necessary to give a true and fair view).
 - 1.3 Director's declaration that the financial statements comply with accounting standards, give a true and fair view, have been made in accordance with the *Corporations Act 2001* (Cth) and that there are reasonable grounds to believe the company/scheme/entity will be able to pay its debts as and when they fall due.
 - 1.4 Director's report.
 - 1.5 Auditor's report.
- 2 A copy of any other document, record or information that you have been required to submit to ASIC under chapter 2M of the *Corporations Act 2001* (Cth) over the past three years.

- 3 Where applicable you should provide evidence of long and/or short term credit rating/s from agencies such as Standard & Poor's, Fitch or Moody's.
- 4 If you are part of a group of related companies, and/or party to a partnership, joint venture or alliance agreement with another company, you should provide:
 - 1.1 The ownership structure of the group, including proportions of equity held. This should be traced through to the individual, natural persons who are the ultimate beneficial owners of the company. Details must be provided for any persons holding at least a 5 per cent interest in the company.
 - 1.2 The contractual arrangements (e.g. alliance contracts, associate contracts, establishment contracts) that define relationships within the group—shared resources, guarantees, revenue flows, obligations and/or responsibilities etc.
 - 1.3 Consolidated audited financial statements for the group.
- 5 A written declaration from an independent auditor or your principal financial institution stating that:
 - 5.1 An insolvency official has not been appointed in respect of the business or any property of the business.
 - 5.2 No application or order has been made, or resolution has been passed or steps have been taken to pass a resolution, for the winding up or dissolution of the business.
 - 5.3 They are unaware of any other factor that would impede your ability to finance your energy retail activities under the authorisation.
- 6 A written declaration from the Chief Financial Officer (or Chief Executive Officer), or director/s stating that you are a going concern and that the officer is unaware of any factor that would impede your ability to finance your energy retailer activities under the retailer authorisation for the next 12 months. We may also request this declaration from an officer of your parent company or related companies. For unincorporated applicants, a written declaration to this effect should be provided by the person/s in effective control of the business.
- 7 Details of any bank guarantees.

- 8 You are encouraged to provide any additional information that will assist us in our consideration of your financial capacity to meet the requirements of, and all obligations under, the retailer authorisation, national regulatory framework and relevant state/territory energy regulatory arrangements.

2.3 Suitability criterion

You must be a suitable person to hold a retailer authorisation.

What is a suitable person?

The AER may be guided in its assessment of suitability by case law on what it means to be a ‘fit and proper’ person. The courts have provided guidance on the question of what it means to be a fit and proper person in the context of those seeking authorisation to conduct regulated activities. They have indicated that context is important in determining whether someone is a fit and proper person. A person’s character or reputation is relevant to the determination as it provides an indication of (or public perception of) likely future conduct.⁵

The question of suitability to conduct energy retailing goes beyond an assessment of financial and organisational capacity. We may look to previous commercial dealings of you, your associates and any other entity that exerts control over your business activities (as applicable) and the degree of honesty and integrity shown in those dealings. Any assessment will look at whether you are likely to contribute to the national energy retail objective and act in the long term interest of consumers.

We will, therefore, require you to provide a range of information to enable us to assess your suitability, with particular regard to whether there has been actual improper conduct or may have been improper conduct in previous commercial dealings.

Failure to comply with regulatory requirements

To assess the standard of honesty and integrity shown in your previous commercial dealings, or those of your officers, associates or any other entity that exerts control over your business activities, we require you to provide details of any failure to comply with regulatory requirements, laws or other obligations over the previous 10 years that has resulted in an infringement notice or other enforcement action.

Prior revocation or refusal of a licence or authorisation

We will have regard to whether you or your company directors have previously held a licence/authorisation in the energy industry (or any another industry) that has been revoked, and the reason for the revocation. We will also have regard to whether a previous application for a licence/authorisation in any industry has been refused, and the reason for the refusal.

Disqualified directors

We will have regard to whether your director/s (or shadow / de facto director/s) are disqualified. We require written declarations from members of your management team stating that they have not been disqualified from the management of corporations.

We may conduct searches of the ASIC registers for disqualification from being a company director (www.asic.gov.au). We may also conduct searches using the

⁵ See, for example, *Australian Broadcasting Tribunal v Bond and Others* (1990) 94 ALR 11

National Personal Insolvency Index (www.itsa.gov.au) managed by the Insolvency and Trustee Service Australia. This will allow us to determine whether company directors or major shareholders (if applicable) are registered as bankrupt or are insolvent under the *Bankruptcy Act 1966* (Cth).

We require a written declaration from your Chief Financial Officer (or Chief Executive Officer) or your director/s regarding your record of bankruptcy in any overseas jurisdiction.

Criminal convictions

We will require details of any unspent convictions for the following persons:

- The current director/s (or shadow / de facto director/s) of the applicant, its associates and any other entity that exerts control over the applicant's business activities.
- The holding company and its director/s (or shadow / de facto director/s).
- If the applicant is unincorporated, the person/s with effective control of the business.
- Any person/s holding 20 per cent or more of any class of shares or any instrument or right convertible into, exchangeable for or giving the person the right to acquire 20 per cent or more of any class of shares in the applicant.

We may ask you to obtain a criminal history check from the Australian Federal Police to confirm this information.

You must also declare unspent convictions from overseas jurisdictions for the categories of persons listed above.

Information requirements – suitability

The AER requires the following information to be provided in an application for authorisation:

- 1 Details of any enforcement action or enforceable undertaking taken against you, your associates and any other entity that exerts control over your business activities in business dealings over the past 10 years.
- 2 Details of previously revoked authorisations or licences held in any industry and the reason/s for the revocation.
- 3 Details of any failed authorisation or licence applications in any industry and the reason/s the application was unsuccessful.
- 4 Details of any past or present administrative or legal actions in relation to an authorisation or licence in any industry.

- 5 Details of any offences or successful prosecutions under any territory, state, commonwealth or foreign legislation (including, but not limited to, the *Australian Securities and Investments Commission Act 2001* (Cth), *Trade Practices Act 1974* (Cth) and the *Corporations Act 2001* (Cth)) that are relevant to your capacity as an energy retailer, or written confirmation that no offences have been committed against, or been prosecuted under, any such legislation. This information must be provided for:
- The current director/s (or shadow / de facto director/s) of the applicant, its associates and any other entity that exerts control over the applicant's business activities.
 - The holding company and its director/s (or shadow / de facto director/s).
 - If the applicant is unincorporated, the person/s with effective control of the business.
 - Any person/s holding 20 per cent or more of any class of shares or any instrument or right convertible into, exchangeable for or giving the person the right to acquire 20 per cent or more of any class of shares in the applicant.
- 6 Upon request, a criminal history check from the Australian Federal Police conducted within the past 12 months for persons listed under information requirement 5.
- 7 Details of whether any director/s (or shadow / de facto director/s) are disqualified. We require written declarations from members of your management team stating that they have not been disqualified from the management of corporations.
- 8 A written declaration from your Chief Financial Officer (or Chief Executive Officer) or your director/s regarding your record of bankruptcy in any overseas jurisdiction.
- 9 Full names and current residential addresses of all officers of the applicant.
- We may check these details against the ASIC register of banned and disqualified persons.

- 10 Details of policies and procedures addressing the probity and competence of officers of the applicant.
- 11 You are encouraged to provide any additional information that will assist us in our consideration of the character and past performance of your officers.

Part 3: Revocation, transfer and surrender

3.1 Revocation

Grounds for revocation

We may revoke a retailer authorisation if:

- You have materially failed to meet the obligations of being a retailer under the Retail Law and Retail Rules or other applicable energy legislation; and we have a reasonable apprehension that you will not be able to meet the obligations of a retailer in the future.
- For electricity, you are not a registered participant for purchasing electricity as required by s. 11(4) of the National Electricity Law.
- For gas, you are not registered under the relevant gas market schemes.
- You have triggered a RoLR event.

Failure to participate in the relevant energy ombudsman scheme/s or to meet the obligations under the relevant scheme/s in jurisdictions where you are retailing to small customers could result in your retailer authorisation being revoked.

In deciding whether to revoke a retailer authorisation following a breach of a retailer obligation, we will consider a number of factors. These include the impact of the breach; the circumstances of the breach, including whether it was deliberate; the compliance culture of the participant and any assistance provided to the AER in investigating the breach.

Revocation process

We must generally follow a specific process in considering whether to revoke an authorisation. However, there is no formal process when considering whether to revoke the authorisation of a participant that has triggered a RoLR event.

Under the formal process, we will give notice in writing of an intention to revoke your authorisation and the reasons for this. The notice must state that you have the opportunity to respond by a date specified in the notice. The response date will be no less than 10 business days after giving notice. Your response, if you choose to respond, may indicate why your authorisation should not be revoked and demonstrate how you intend to manage the issues raised in the revocation notice.

We must consider your response and decide whether the revocation will proceed. We will not revoke your authorisation if we are satisfied you can address the issues in the notice. We will revoke your authorisation if steps identified in your response to address the issues in the notice are not completed in an agreed timeframe, or if we are not satisfied your response demonstrates you can address the issues.

If we revoke your authorisation we may, after consulting with AEMO, impose conditions on the transfer of your customers to another retailer. These conditions can require you to continue to abide by requirements of energy laws, including obligations associated with participation in state/territory ombudsman schemes.

If we revoke an authorisation, the notice of revocation will be published on our website with the reasons for the decision. Details of any conditions related to the transfer of customers will also be published. We will inform AEMO of the decision.

Effect of revocation

Revocation is a last resort, used only if you have shown a persistent or serious failure to comply with the obligations of being a retailer. This is because a decision to revoke an authorisation will have flow on effects to retail customers and third parties.

If your authorisation is revoked, we will set a date when it will take effect.

Customers that have not been transferred to another retailer by the date the revocation takes effect will become customers of the local area retailer (or the RoLR if there has been a RoLR event).

3.2 Transfer

You can apply to us to transfer your retailer authorisation. The application for transfer must be made by you and the proposed transferee. The application must be submitted both in writing and electronically via email.

Applications should be posted to:

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

And emailed to: AERInquiry@aer.gov.au

The subject line of the email should state 'Application for transfer of retailer authorisation: Attn: General Manager, Markets Branch'.

We will acknowledge all applications made by email.

We will apply the same entry criteria in assessing the transfer application as if the proposed transferee were applying for a new retailer authorisation under Division 2, Part 5 of the Retail Law. The consultation process is the same as for applications for retailer authorisation. It is recommended that businesses looking to transfer a retailer authorisation engage with the AER at an early stage to prevent delays in the process.

If the proposed transferee holds an existing retailer authorisation, we will generally consider them to have satisfied the entry criteria for the purposes of s. 516(2)(a) and may waive the associated information requirements.

All applications must demonstrate that the transfer will be managed so the customers are not negatively affected. The applicants must show that all retail customers are either transferred to the proposed transferee or another retailer. If they become customers of the proposed transferee, it must be under the same or better terms and conditions as the contract between the customer and the original retailer.

An application may be granted with conditions attached. The conditions can require the transferor to continue to abide by requirements of energy laws, including obligations associated with participation in state/territory ombudsman schemes. If this is the case, the applicants will be given notice of this decision.

We will grant the transfer application if we find that the proposed transferee satisfies the entry criteria and demonstrates that issues concerning retail customers and third parties are adequately managed. If the transfer application is approved, we will notify the incoming and outgoing holder of the retailer authorisation. We will also notify AEMO and publish a notice of the transfer on our website.

We aim to process transfer applications within 12 weeks. Where the proposed transferee already holds a retailer authorisation, the transfer process may be expedited. If a transfer application is approved we must set a date at which the transfer will take effect. This must be no later than six months after the decision to grant the transfer is made.

If we refuse a transfer application, you will be given written notice stating the reasons why your application was refused.

Information requirements – transfer

The AER requires the following information to be provided in an application for transfer of an authorisation:

- 1 Transferees must provide all information as required in an application for authorisation under this guideline.
- 2 Transferors must provide a statement of reasons for the transfer of the retailer authorisation.
- 3 Transferors must provide documentation demonstrating that appropriate arrangements have been made for the transfer of customers and that continuity of the supply of energy to your customers will not be compromised by the transfer.

3.3 Surrender

If you wish to cease operating as an energy retailer, or no longer require a retailer authorisation, you can apply to us at any stage to surrender your authorisation. We must decide whether to approve the surrender. The application must set out the reason/s for surrendering your retailer authorisation.

Due to the potentially adverse consequences surrender could hold for your customers, you must demonstrate there will be continuity of supply to your customers, and that they will not be adversely affected. You can do this by demonstrating in your application that appropriate arrangements have been made for each of your customers and that all customers will be transferred to another retailer on the same or better terms and conditions as their contract with you.

We may, after consulting with AEMO, impose conditions on the transfer of your customers to another retailer. These conditions can require you to continue to abide by requirements of energy laws, including obligations associated with participation in state/territory ombudsman schemes.

The application must be submitted both in writing and electronically via email.

Applications should be posted to:

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

And emailed to: AERInquiry@aer.gov.au

The subject line of the email should state 'Application for surrender of retailer authorisation: Attn: General Manager, Markets Branch'.

We will acknowledge all applications made by email.

We aim to process surrender applications as promptly as possible. We will set a date for the surrender to become effective. The date must be no longer than six months from the date the surrender application is approved.

We will publish notice of our decision to approve the surrender on our website. The notice will state the reasons for the decision and any conditions imposed on the surrender. We will give notice to AEMO that your retailer authorisation has been surrendered.

If we refuse your application, you will be given written notice stating the reasons why your application was refused.

Information requirements – surrender

The AER requires the following information to be provided in an application for surrender of an authorisation:

- 1 A statement of reasons why you wish to surrender your retailer authorisation and why surrender is the best course of action.
- 2 Documentation demonstrating that appropriate arrangements have been made for your customers and that continuity of the supply of energy to your customers will not be compromised by the surrender.

Part 4: Enforcement

Requirements on holder of a retailer authorisation

Once your application for a retailer authorisation is granted, it will come into operation on a date advised by us or on fulfilment of any conditions relating to the entry criteria. Once it comes into operation, you are bound by the requirements in the Retail Law and Retail Rules in relation to your energy marketing and energy sales activities. You must be able to comply with the legislation, including reporting requirements, prior to commencing operations.

We encourage potential applicants to discuss these issues with us before making a formal application. You should ensure you have systems and procedures in place that will enable you to comply with all the obligations of a retailer and to monitor your performance and compliance.

Failure to comply may lead to enforcement action by us. Civil penalties may apply and certain activities may attract criminal sanctions. A material failure to meet the obligations of a retailer under applicable energy legislation may lead to us revoking your authorisation under Division 5, Part 5 of the Retail Law.

Energy ombudsman schemes may bring alleged contraventions of the Retail Law, Retail Rules and/or relevant state/territory requirements to our attention. We will also monitor retailers' compliance with their regulatory obligations, including undertaking compliance audits under the Retail Law.

AER enforcement action

Under the Retail Law a person must not sell energy to a retail customer unless they hold a current retailer authorisation under Part 5 or they are selling energy pursuant to an exemption under Division 6. Civil penalties apply if this provision is breached or if there is an attempted breach. Under s. 1312 an attempted breach is considered an actual breach. If we consider that a provision has been breached, we may commence proceedings under s. 1302. If the court finds there has been a breach, a civil penalty may be ordered under s. 1304.

Our decisions to refuse a retailer authorisation, or on the revocation, transfer or surrender of an authorisation are not subject to merits review. Decisions of the AER are, however, subject to judicial review (covering questions of law only) under the *Administrative Decisions (Judicial Review) Act 1977 (Cth)*.

Once a revocation, transfer or surrender of a retailer authorisation is complete, you must cease carrying on retailing activities. A failure to cease retailing activities may attract the civil penalties discussed above.

The Federal Court also has powers to make orders on application by us under s. 44AAG of the *Trade Practices Act 1974 (Cth)*, including orders requiring you to do one or more of the following:

- Cease the activity that is in breach.
- Take action to remedy the breach.

- Implement a specified program for compliance with the Retail Law.

We will treat any attempt by a person to sell energy prior to obtaining an authorisation, or following the revocation, transfer or surrender of an authorisation, with the utmost seriousness.

Schedule 1: Information requirements

This schedule is a re-iteration of the information requirements set out at the end of each relevant section of this guideline. Schedule 1 should be used as a checklist to assist you in completing your application, but note the list below is not exhaustive and we may request further information from you. You should also provide any additional information you believe is relevant to your application.

We will not process applications for retailer authorisation until we receive all information required under this guideline.

Requirement for further information

If we require further information to process your application for a retailer authorisation, we will advise you in writing. It is preferable for us to receive any additional information as soon as possible so that your application may be processed in a timely manner.

General particulars

- 1 Your legal name.
- 2 Your trading name if different to your legal name.
- 3 ABN or ACN.
- 4 Registered address for correspondence.

We will verify this information with the Australian Securities and Investments Commission (ASIC).

- 5 Nominated contact person, including their position in the organisation and contact details.
- 6 The form/s of energy for which the retailer authorisation is sought.
- 7 Date you intend to commence retail operations.
- 8 Nature and scope of the operations you propose to conduct.

An authorisation covers energy retailing activities in all participating jurisdictions to all contestable classes of customers. However, some obligations (for example, participation in ombudsman schemes) accrue only when retailing in certain jurisdictions and to certain customer classes. The AER therefore requires information on:

- 9 The jurisdictions in which you intend to retail energy.

- 10 The type of customers you intend to supply (for example, small customers, small market offer customers or large customers as defined in s. 105 of the Retail Law).

Organisational and technical capacity criterion

- 1 Details of your experience in the energy market.
- 2 Details of previous experience as an energy retailer and retailer authorisations or licences previously held in other jurisdictions or currently held in non-participating jurisdictions (for example, Western Australia, or the Northern Territory for electricity), specifically:
 - 2.1 Date and location of previous operations.
 - 2.2 Form/s of energy sold.
 - 2.3 Scale of operations (including the number and size of customers).
 - 2.4 Explanation of which activities were conducted in-house and which were contracted out to third parties.
 - 2.5 Outline the relevance of your previous experience to the requirements of the Retail Law and other applicable instruments.
- 3 Details of general retail experience in another area (if any).
- 4 Details of retail and/or energy experience of a person holding 20 per cent or more of any class of shares or any instrument or right convertible into, exchangeable for or giving the person the right to acquire 20 per cent or more of any class of shares in the applicant.
- 5 Details of any situation/s where you (or an associate) have previously triggered the RoLR provisions of the Retail Law or equivalent state/territory/foreign legislation, or have transferred or surrendered an authorisation or licence in circumstances where if not done, triggering of RoLR provisions would have been likely.
- 6 An organisation chart showing the structure of your organisation.
- 7 A summary of qualifications, technical skills and experience of your officers, and the relevance of those skills and experience to meeting the requirements of

- the retailer authorisation. You must demonstrate your capability to work in the energy industry.
- 8 The number of employees, broken down by business unit or other relevant classification.
 - 9 Details of your human resources policy regarding employee qualifications, including:
 - 9.1 Experience and technical qualifications of employees for the operations they will carry out.
 - 9.2 Relevant industry licences or qualifications.
 - 10 Details of all employee training programs and training policies (including for marketing and the identification of hardship customers) that are in place or that you propose to implement.
 - 11 If you have been in existence for more than 12 months you should provide a business plan, including but not limited to: strategic direction and objectives, identified opportunities in the market place and forecast results.
 - 12 If you have been in existence for less than 12 months and have not yet released audited financial statements, you should provide:
 - 12.1 Budgeted financial statements for the next three years.
 - 12.2 A comprehensive business plan, including but not limited to: strategic direction and objectives; identified opportunities in the market place; forecast results; benchmarks and the impact of differing assumptions or scenarios on your financial position.
 - 13 Details of Quality Assurance accreditations you hold (if any).
 - 14 A copy of your compliance strategy:
 - 14.1 Demonstrating your knowledge and understanding of the obligations imposed on authorised retailers and all statutory, industry and technical requirements (including the requirement to have in place a hardship policy).

- 14.2 Outlining how all retailer authorisation obligations and statutory, industry and technical requirements will be met; and how you will comply with applicable Retail Law and Retail Rules requirements.
- 14.3 Including all complaint and dispute resolution procedures.
- 15 A copy of your risk management strategy covering both operational and financial risks.
- 16 You are encouraged to provide any additional information to support your application which demonstrates your ability to manage risk and operate in accordance with the Retail Law's objectives, particularly the long term interests of consumers.
- 17 Details of insurance arrangements, which must be appropriate for the scale of activities to be conducted under the retailer authorisation.
- 18 Where you may be relying on a third party to provide staff and resources to meet the technical requirements of your retailer authorisation or to fulfil retail roles (such as phone centres or billing), you must:
- 18.1 State all functions and activities you propose to outsource.
- 18.2 Provide details of any formal agreement/s to provide services, including confirmation that the third party possesses relevant technical competencies to conduct the proposed activities.
- 18.3 Provide a summary of the third party's experience in and knowledge of the relevant area.
- 18.4 Provide evidence of the third party's technical capacity to meet relevant obligations, including any relevant accreditations.
- 19 Evidence of any steps taken to obtain membership of a recognised energy industry ombudsman scheme in the jurisdiction/s in which you intend to retail energy to small customers.
- 20 If applicable, you should provide evidence of your prudential arrangements in the wholesale gas or electricity markets, particularly details of your registration with AEMO.

- 21 You are encouraged to provide any additional information that will assist us in considering your past performance. We may contact relevant people and organisations to verify the information provided.

Financial resources criterion

- 1 Copies of your audited financial reports for the past three years including:
 - 1.1 All financial statements required by the accounting standards.
 - 1.2 Notes to financial statements (disclosure required by the regulations, notes required by the accounting standards, and any other information necessary to give a true and fair view).
 - 1.3 Director's declaration that the financial statements comply with accounting standards, give a true and fair view, have been made in accordance with the *Corporations Act 2001* (Cth) and that there are reasonable grounds to believe the company/scheme/entity will be able to pay its debts as and when they fall due.
 - 1.4 Director's report.
 - 1.5 Auditor's report.
- 2 A copy of any other document, record or information that you have been required to submit to ASIC under chapter 2M of the *Corporations Act 2001* (Cth) over the past three years.
- 3 Where applicable you should provide evidence of long and/or short term credit rating/s from agencies such as Standard & Poor's, Fitch or Moody's.
- 4 If you are part of a group of related companies, and/or party to a partnership, joint venture or alliance agreement with another company, you should provide:
 - 1.1 The ownership structure of the group, including proportions of equity held. This should be traced through to the individual, natural persons who are the ultimate beneficial owners of the company. Details must be provided for any persons holding at least a 5 per cent interest in the company.
 - 1.2 The contractual arrangements (e.g. alliance contracts, associate contracts, establishment contracts) that define relationships within the group—shared

resources, guarantees, revenue flows, obligations and/or responsibilities etc.

- 1.3 Consolidated audited financial statements for the group.
- 5 A written declaration from an independent auditor or your principal financial institution stating that:
 - 5.1 An insolvency official has not been appointed in respect of the business or any property of the business.
 - 5.2 No application or order has been made, or resolution has been passed or steps have been taken to pass a resolution, for the winding up or dissolution of the business.
 - 5.3 They are unaware of any other factor that would impede your ability to finance your energy retail activities under the retailer authorisation.
- 6 A written declaration from the Chief Financial Officer (or Chief Executive Officer), or director/s stating that you are a going concern and that the officer is unaware of any factor that would impede your ability to finance your energy retailer activities under the retailer authorisation for the next 12 months. We may also request this declaration from an officer of your parent company or related companies. For unincorporated applicants, a written declaration to this effect should be provided by the person/s in effective control of the business.
- 7 Details of any bank guarantees.
- 8 You are encouraged to provide any additional information that will assist us in our consideration of your financial capacity to meet the requirements of, and all obligations under, the retailer authorisation, national regulatory framework and relevant state/territory energy regulatory arrangements.

Suitability criterion

- 1 Details of any enforcement action or enforceable undertaking taken against you, your associates and any other entity that exerts control over your business activities in business dealings over the past 10 years.
- 2 Details of previously revoked authorisations or licences held in any industry and the reason/s for the revocation.

- 3 Details of any failed authorisation or licence applications in any industry and the reason/s the application was unsuccessful.
- 4 Details of any past or present administrative or legal actions in relation to an authorisation or licence in any industry.
- 5 Details of any offences or successful prosecutions under any territory, state, commonwealth or foreign legislation (including, but not limited to, the *Australian Securities and Investments Commission Act 2001* (Cth), *Trade Practices Act 1974* (Cth) and the *Corporations Act 2001* (Cth)) that are relevant to your capacity as an energy retailer, or written confirmation that no offences have been committed against, or been prosecuted under, any such legislation. This information must be provided for:
 - The current director/s (or shadow / de facto director/s) of the applicant, its associates and any other entity that exerts control over the applicant's business activities.
 - The holding company and its director/s (or shadow / de facto director/s).
 - If the applicant is unincorporated, the person/s with effective control of the business.
 - Any person/s holding 20 per cent or more of any class of shares or any instrument or right convertible into, exchangeable for or giving the person the right to acquire 20 per cent or more of any class of shares in the applicant.
- 6 Upon request, a criminal history check from the Australian Federal Police conducted within the past 12 months for persons listed under information requirement 5.
- 7 Details of whether any director/s (or shadow / de facto director/s) are disqualified. We require written declarations from members of your management team stating that they have not been disqualified from the management of corporations.

- 8 A written declaration from your Chief Financial Officer (or Chief Executive Officer) or your director/s regarding your record of bankruptcy in any overseas jurisdiction.
- 9 Full names and current residential addresses of all officers of the applicant.
We may check these details against the ASIC register of banned and disqualified persons.
- 10 Details of policies and procedures addressing the probity and competence of officers of the applicant.
- 11 You are encouraged to provide any additional information that will assist us in our consideration of the character and past performance of your officers.

Transfer of an authorisation

- 1 Transferees must provide all information as required in an application for authorisation under this guideline.
- 2 Transferors must provide a statement of reasons for the transfer of the retailer authorisation.
- 3 Transferors must provide documentation demonstrating that appropriate arrangements have been made for the transfer of customers and that continuity of the supply of energy to your customers will not be compromised by the transfer.

Surrender of an authorisation

- 1 A statement of reasons why you wish to surrender your retailer authorisation and why surrender is the best course of action.
- 2 Documentation demonstrating that appropriate arrangements have been made for your customers and that continuity of the supply of energy to your customers will not be compromised by the surrender.