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Australian Energy Regulator - Markets Branch
GPO Box 520
Melbourne VIC 3001

Dear Sir/Madam

RE: Australian Energy Regulator's Retailer of Last Resort (ROLR) Guidelines (the Guidelines)

TRUenergy welcomes the opportunity to provide the following comments in relation to the Australian Energy Regulator's (AER) Retailer of Last Resort (ROLR) Guidelines (the Guidelines).

TRUenergy is overall supportive of the AER's approach and believes its proposal to spread the risk associated with retailers taking on the responsibilities of being a ROLR through the firm and non-firm ROLR obligations as sensible. However, TRUenergy would note that the 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.

TRUenergy believes the overriding objective of a ROLR scheme must be consumer confidence and the integrity of the wholesale market and therefore ensuring there is not a cascading of retailer failures. In finalising the guidelines associated with ROLR it is important to recognise that in certain cases, especially where the number of customers involved means the ROLR is required to absorb more than 100,000 customers that the ROLR(s) may require additional flexibility, especially with the registration of the affected customers.

TRUenergy notes that the AER is keen to ensure that the costs retailers recover from affected customers reflects the efficient costs of transferring them from the failed retailer and continuing to supply them with energy. In assessing any cost borne by affected customers, TRUenergy would emphasise that there is no certainty that the affected customer will remain with the ROLR. Given that the majority of NEM customers have the ability to choose their retailer it is extraordinarily difficult to predict how long a customer might remain with the ROLR, especially where there is volatility in the wholesale market which is likely to see higher churn. The other important aspect about determining whether the costs the ROLR is seeking to recover from the end customers are reasonable is frenetic nature of such events. Given the focus of the Guidelines on protecting customers from the impacts of any retail failure TRUenergy maintains that inevitably the designate ROLR is likely to face additional costs which in any normal market may not be incurred. TRUenergy therefore considers it is appropriate for any ROLR to be reimbursed for any additional costs which are not be covered by its administration fee where the ROLR can demonstrate that such expenses were legitimately incurred. Any cost recovery application should be made within 12 months to allow for all of the retailer's costs to be identified. TRUenergy is of the view the most appropriate way of recovering the costs associated with any retailer failure is via the distribution tariff.

When determining whether a retailer is appropriate to be a ROLR for a particular market TRUenergy believes it is important that financial viability is assessed along with its ability to procure additional bank guarantees and the scalability of its retail systems. While TRUenergy recognises that any customer impact should be kept to be a minimum, TRUenergy believes this should not be an important determinant in determining whether a retailer is accepted as a ROLR as the costs associated with servicing such customer is likely to be higher if there is wholesale market volatility.

Finally, TRUenergy believes there are two important learnings associated with the failure of Jackgreen in 2009. The first of these was in relation to the difficulty the ROLRs had in obtaining the necessary customer data to communicate with the Jackgreen's customers. TRUenergy believes there were insufficient requirements on Jackgreen to assist the ROLRs and therefore it would support the AER's proposal to address this by making the distributors the custodians of the data. The other concern TRUenergy had with the failure of Jackgreen was that the license was not cancelled and that it continues to hold a retail license today. TRUenergy believes if a retailer triggers the ROLR provisions given the impact his has on other market participants this should result in that retailer having to surrender its retail authorisation.

Should you have any questions in relation to this submission please call me on (03) 8628 1185.

Yours sincerely

Alastair Phillips
Regulatory Manager
TRUenergy