United Energy Distribution and Multinet Gas

National RoLR Regime

Contact: Verity Watson

United Energy Distribution

Phone: (03) 8540 7819

Date: 22 December 2010

TABLE OF CONTENTS

Executive summary

1.1 RoLR Plan development

- The businesses recommend that the Retailer of Last Resort (RoLR) plan also provide clarity on the default RoLR assigned to each network. All gas distribution networks, including South Gippsland should have a default RoLR assigned.
- Australian Energy Market Operator (AEMO), default/additional RoLRs and distributors need to be advised of the Australian Energy Regulator (AER) RoLR designations at the same time as the RoLR event is triggered. Appendix A needs to recognise both the RoLR trigger and the RoLR notice prior to the commencement of the next market day.

1.2 RoLR registrations and appointments

- The businesses agree that a regular turnover of default RoLRs has the potential to increase the overall cost to customers. Default RoLRs should be considered an evergreen appointment with expressions of interest being called for after a RoLR event or on request from an interested retailer to become a default RoLR.
- The businesses support the current jurisdictional RoLRs being registered as the default RoLRs in the first instance under National Energy Customer Framework (NECF). The business note that there is no default RoLR for many of the postcodes in the South Gippsland gas network, the AER will need to address this gap.
- The more designated RoLR's allocated within an electricity network area, the longer it will take to carve up customer data lists and in progress service orders for the correct retailers. The more complexity in the allocation of RoLRs, the more likely that there may be errors or poor customer experiences. The businesses prefer that there is one designated RoLR per network area unless it is a large/local retailer failure.

1.3 RoLR Cost Recovery

- The Issues Paper suggests that the approach should not compromise the financial position of the RoLR. The businesses recommend that the AER principles also include the distributor having minimal/no cashflow impact in any RoLR payment determination of ROLR costs.
- The Issues Paper and National Energy Retail Law (NERL) provide little clarity on whether the distributor is meant to provide the AER with a pass through application on AER RoLR cost recovery arrangements. The AER needs to provide more clarity regarding the distributor payments and distributor pass through process in further consultation.
- A cost recovery arrangement that minimises additional operational costs and is administratively simple is preferred. One designated RoLR per distribution network with recovery of the relevant RoLR costs from the customers in that one distribution network would appear simplest.

2 Introduction

The National Energy Customer Framework (NECF) was developed by the Ministerial Council of Energy (MCE). The NECF consists of the NERL, National Energy Retail Regulations and National Energy Retail Rules (NERR) plus a number of other amendments in the gas and electricity Rules.

The AER has a number of obligations in the NECF including arrangements for customers to continue to be supplied with electricity or gas if their energy retailer fails. The AER is responsible for administering some aspects of the national retailer of last resort arrangements and is seeking stakeholder views on three Issues Papers;

- RoLR plan development;
- RoLR registrations and appointments; and
- RoLR cost recovery scheme.

United Energy Distribution and Multinet (the businesses) appreciate the opportunity to provide a response on each of these Issues Papers. The businesses have selectively answered the questions in each of the papers in the sections below.

UED is one of five electricity distribution businesses operating in Victoria. UED's electricity distribution network provides services to almost 630,000 end-use customers, located in an area of 1,472 km2 in south-east Melbourne and the Mornington Peninsula.

Multinet is the largest distributor of natural gas in Victoria and serves connections in Melbourne's inner, outer eastern and south-eastern suburbs. Multinet also reticulate gas to five townships in South Gippsland, Victoria. Multinet owns the distribution network assets used to transport gas from the high-pressure transmission network to the premises of residential, commercial, and industrial gas users.

3 RoLR Plan Development

The NERR requires the AER to develop and maintain a RoLR plan that is able to be used by RoLR participants in a RoLR event, including the communications with customers about a retailer failure. The NERR also requires regular test exercises to be carried out by participants in the plan.

The RoLR plan participants must use their best endeavours to assist to maintain and comply with the RoLR plan. The AER, AEMO, registered RoLR's, distributors and other parties nominated by the AER are all RoLR plan participants.

3.1 Template for AER RoLR plan

Q 1. Is it appropriate that the AER draw on ESCV's existing RoLR plan as the starting point for the AER's RoLR plan? Please set out your reasons why / why not.

Q 2. Are there any other matters which should be included in or excluded from the AER's RoLR plan which are not/are presently included in the present Victorian RoLR plan?

Q 3. Are there areas of commonality between the RoLR plan and RoLR procedures that need to be considered in the development of the RoLR plan? And if so, what are they?

The businesses consider that the ESC RoLR plan provides a reasonable template, including the elements and proforma letters/notices that would be needed as part of the event. This plan has been used in the Jackgreen RoLR event.

The ESC RoLR plan caters for both electricity and gas retailer failure in Victoria and communications between the AER, AEMO, default RoLR and distributors. The plan provides guidance on the default RoLR on various distribution network areas, accelerated transfers and transfers to be cancelled etc.

The businesses recommend that the RoLR plan also provide clarity on the default RoLR assigned to each network. All gas distribution networks, including those distribution networks on the non-declared transmission systems, such as South Gippsland should have a default RoLR assigned.

The RoLR plan should have a clear purpose and cover a clear timeframe e.g. the RoLR transfer date and the first week. The plan is about the communications to customers of a failed retailer and the customer transfer arrangements, including the terms and conditions provided by the RoLR. The plan needs to cover the various communications in the market that assist the customer transfer process and the initial communication to customers. The RoLR plan should not extend to customer complaint processes months down the track and reconciliation processes etc otherwise it has the potential to become unwieldy. Post implementation reviews of RoLR events should capture these complaints or data issues.

In developing the plan, the AER should also be mindful of the AEMO electricity RoLR processes for Consumer Administration and Transfer Solution (CATS) and Business to Business (B2B) which are several hundred pages and already capture the processing/transactional requirements in the market, including the data reconciliation processes after the event. The AER RoLR plan should be consistent or compliment the processes already implemented in the electricity market and the Victorian gas market in order to avoid unnecessary additional costs. The businesses support consistency between the RoLR plan and the AEMO RoLR processes and that the RoLR plan be kept as simple as possible.

The AER RoLR plan is a national RoLR plan across electricity and gas and across various gas market structures. Given the broader application of the AER plan, we make the following recommendations:

- It is important that a national RoLR plan is well structured, succinct and avoids duplication. The ESC plan has several pages where the distributor RoLR contacts are listed. It may be useful to have one table for all distributor contacts by electricity and by gas and one table where the retailers are listed.
- The RoLR plan must have version numbers and dates so that the latest RoLR plan may be easily located on the AER website with the default RoLR listing and the additional RoLR listing. Version control is important so that the correct RoLR contacts or AER directions are readily located in the most current document.
- A good document structure will allow clear communication of the RoLR processes/procedures in the main section of the document with communication proforma's /notices easily located in Appendices or Schedules.
- It may also be useful to provide a checklist of the event by participant type so that this may be completed as the event unfolds. This allows distributors or retailers to pick up one table and understand what is meant to happen when. A participant checklist would be useful when key business resources are on leave or new contacts are provided for RoLR events.

3.2 RoLR plan participants

Q 4. Should all retailers in the participating jurisdiction be included as RoLR plan participants? Please set out your reasons why / why not?

The businesses support all retailers in the participating jurisdiction being included as RoLR plan participants.

The NERR allows for both default and additional RoLRs which means that a retailer could be designated as a RoLR who is not the traditional local retailer. The concept of additional retailers as RoLR has the potential to include all retailers. The additional RoLRs need to be included in the plan where they have been assigned/agreed to be a designated RoLR in the RoLR event.

If customer transfers away from the failed retailer to the customer's retailer of choice are going to be accelerated in a RoLR event, this has the potential to include any/all retailers.

Q 5. Do you agree with ombudsmen being included as RoLR plan participants? Please set out your reasons why / why not?

The businesses concur with the AER view that the Ombudsman plays a crucial role in resolving customer complaints in relation to the transfer process e.g. against the failed retailer and in directing customers to the appropriate contact.

The RoLR plan has two clear distinct purposes in NERL clause 163 to enable:

- Strategies to quickly and effectively communicate the details of the RoLR event to parties who need to manage communications or transfers in the first instance; and
- Strategies for the designated RoLR to quickly and effectively communicate to small customers about the event and their new terms and conditions.

The Ombudsman needs to be aware of all AER directions in the RoLR event and the RoLR designations and may be able to provide important insights on process improvements in the RoLR plan in post implementation review exercises. However the Ombudsman does not give effect to or facilitate the transfer or the initial communication to the customer in the first instance.

Q 6. Are there any other parties that should be included by the AER as RoLR plan participants? If so, who?

The businesses consider that there are no other parties who need to be included in the plan.

3.3 Regular customer data transfers

Q 7. Should arrangements be made for the regular transfer of customer data from retailers to a data custodian? If so, who should act as the data custodian? Q 8. What is the appropriate mechanism to provide for the regular transfer of customer data?

In Victoria, all second tier retailers in the gas market provide customer data to AEMO, the data custodian, each month. For electricity, the B2B procedures provide a mechanism for customer data to be updated to distributors as required and for reconciliations to occur in May and November each year. The industry Information Exchange Committee is also running a project to review the quality of the electricity customer data and opportunities for improvements in the B2B procedures.

The businesses recognise that the distributor customer data is sufficient to establish a retail account and allow the initial communication to the customer, it does not provide details of hardship programs, instalment arrangements or feed in tariff schemes etc.

Given the industry has already implemented AEMO as the data custodian for gas and distributors for electricity, the businesses see no reason to change from this arrangement. The failed retailer can be required to provide more specific customer data on request from the AER through regulatory information notices.

The Issues Paper suggests that the initial customer letter provides details of what happens to the existing customer contract with the failed retailer, implications for hardship arrangements, direct debit, advanced payments, security deposits and uncompleted service orders. The distributor provided customer data will not provide this level of detail. Apart from service orders, distributors do not hold this type of customer sensitive data. The designated RoLRs will need a matching process between the data custodian's data and this customer sensitive data from the failed retailer.

The only gap in the data custodian process is that in the event of a 1st tier gas retailer failure, all data would need to be obtained from the failed retailer.

3.4 Communication leading up to the issue of a RoLR notice

Q9. Do stakeholders have comments on the communication strategies proposed for the lead-up to a RoLR event or the timeframes proposed in Appendix A?

The businesses support the proposed communications leading up to the announcement that a RoLR event is about to occur.

A RoLR event could be triggered by suspension in the wholesale market or via a strategic exit or appointment of a receiver. Where AEMO trigger a RoLR event, the businesses expect that AEMO continues to issue a NEM wide communication as a method of notifying all participants in the market. Notification to the electricity or gas market by an AEMO communication should be included in Appendix A.

Appendix A only provides communications up to the notification that the RoLR event will occur. Appendix B starts at the point that the AER issues the RoLR notice, however the timing of the AER RoLR notice in relation to the notification that the RoLR event will occur and in relation to the commencement of the next market day is unclear. The businesses suggest that the rows on the last page of Appendix B be inserted at the end of Appendix A to complete the issuing of the RoLR notice to registered participants in Appendix A. This allows Appendix B to cover the communications to a wider set of stakeholders following the issue of the RoLR notice to the market.

Notification that a RoLR event will occur and the AER RoLR notice specifying the designated RoLR's are two crucial notifications for distributors (and retailers). Appendix A should include confirmation from the participants that they have received each of these notifications to ensure that any breakdown in communication is able to be promptly corrected.

AEMO, default/additional RoLRs and distributors need to be advised of the AER RoLR designations at the same time as the RoLR event is triggered or very shortly afterwards. The AER needs to ensure that the RoLR has made any necessary preparations for the next market day which may start at midnight or 6am. Appendix A needs to recognise the RoLR trigger and the RoLR notice prior to the commencement of the next market day.

3.5 Communication after the issue of a RoLR notice

Q10. Do you agree with the measures proposed to communicate with the affected community? Please set out your reasons why / why not.

Q11. Financial counsellors, members of parliament and migrant resource centres have been identified as potential information conduits during a RoLR event. Are there any other information conduits that may be used?

Q12. Is there any other information that should be provided to the wider community?

No further comments.

3.6 Information to affected small customers

Q13. Are the information requirements that are specified for affected small customers adequate? If not, what additional information needs to be provided to the affected small customers?

Q14. Do you agree with the proposed frequency and content of communications between the RoLR and its customers? Please set out your reasons why / why not?

Q15. Do you agree with the proposed information requirements for the failed retailer? Please set out your reasons why / why not?

Q16. Do you agree that customers who were in the process of transferring to the failed retailer should be informed of the cancellation by the retailer they are returning to or by another party? Does this represent a significant cost burden for these retailers?

Q17. What other measures should the RoLR plan require to ensure the accessibility of information during a RoLR event?

The RoLR plan should ensure that communications to small customers are efficient and effective. Where the initial media communication raises more concerns for small customers than it resolves, retailers call centres would receive increased calls. To the extent that retailers call centres are unable to deal with the increased calls, there is a flow on effect to disritibutors call centres and eventually to fault lines. The AER should ensure that designated RoLR’s have made preparations to received increased calls.

3.7 Information to affected large customers

Q18. Are there any other information requirements for large affected customers that have not been discussed?

The businesses consider that the proposed communications appear reasonable, recognising that the RoLR plan is not set in concrete and is able to change based on learning's in the industry.

However, the businesses note that the Issues Paper suggests more immediacy for informing large customers of their new RoLR arrangements since they are exposed to the wholesale market price under their RoLR contract. Appendix B suggests that this communication should occur as soon as possible after the RoLR notice is received by the designated RoLR.

Where the AER adopts other than the default RoLR as the designated RoLR then the customer data custodian will need to split the list into the correct designated RoLR for each NMI/MIRN. This may take the data custodian time during business hours to undertake this task. Timeframes for communications need to be reasonable.

3.8 AEMO

Q22. Is there any other information AEMO should provide the AER (or the AER provide AEMO) after a RoLR event?
Q23. Are the customer notification processes set out in the ESCV's RoLR manual adequate? If not, what additions or changes should be made?
Q24. Are there other channels of communication that the RoLR plan should specify?

The distributor, as data custodian, has no way to validate the customer data we receive from retailers. The notifications we are provided could be incomplete, incorrect or even missing. The Information Exchange Committee is looking to improve customer data processes. The businesses suggest that the necessary improvements be made through the B2B processes as opposed to the RoLR plan.

3.9 Affected Distributors and designated RoLR's

Q25. In addition to the RoLR notice, by what means should the AER inform the RoLRs and distributors of their RoLR obligations?

Q26. Should the RoLR plan require any other information to be provided to these parties?

Q27. Should the RoLR plan require the designated RoLR(s) to provide any information to the AER?

The AER considers that the most efficient and effective way of passing on additional information or obligations is through the RoLR notice.

Using the RoLR notice as the mechanism to inform the distributor of RoLR related obligations, including finalising of service orders and facilitating actual meter reads etc is not appropriate. The RoLR notice is to advice impacted participants in the market of the decision regarding the AER's designated RoLR's. Process or transactional matters that flow on as a consequence of the RoLR notice should, and already are, captured in various market procedures e.g. the electricity RoLR processes, the gas interface protocols and gas market procedures in Victoria.

The RoLR plan should contain the default RoLRs per network areas and provide clarity on the AER standing directions to AEMO. It should not seek to provide detail on transactional processes which are best captured in various market or metrology procedures.

3.10 RoLR Exercises

Q28. Are there any issues that need to be considered by AER and AEMO when it conducts its preliminary planning for the RoLR exercises?

Q29. How often should exercises be conducted and what form should they take (e.g. desk-top or system transactions)?

Q30. Are there particular information requirements and systems procedures that the exercises should focus on / not focus on?

The businesses note that the timing of the adoption of the NECF in Victoria is still uncertain, as is the final co-regulatory framework in which Victorian distributors will operate. There will need to be a transitional period in the move to the national framework and this will need to be taken into account in any RoLR exercises.

To date RoLR exercises in the market have occurred as desk top exercises. The businesses would support desktop exercises being conducted every few years. It may be useful to alternate electricity and gas exercises each year.

There is a significant cost, resource effort and lead time if the RoLR exercises were to test system and end to end transactional capability. If the test exercises require system and end to end testing, then distributors should be provided with a mechanism to recover the costs of RoLR test planning, preparation and testing.

4 RoLR registrations and appointments

The AER has the responsibility under NECF to administer the national RoLR scheme, including the registration and appointment of RoLRs. The AER must ensure that there is a default RoLR registered for every connection point in electricity and every distribution system for gas at all times. The AER may also register additional RoLRs at each electricity connection point or for each gas distribution system. A default or additional RoLR can be appointed the designated RoLR in a RoLR event and will be responsible for supplying the failed retailer's customers once they transfer.

4.1 Objectives of the RoLR regime

Q 1. 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?

The Issues Paper outlines the AER's view of the primary objectives of the national RoLR scheme and a number of secondary objectives in relation to the RoLR registration and appointments framework.

The businesses recommend the following additional primary objectives;

- An approach that maintains the integrity and confidence in the whole market in a RoLR event; and
- An approach that prefers simple RoLR process being able to be implemented quickly by all parties, including simple, effective communication with customers.

4.2 RoLR registration

The NERL provides for two categories of RoLR registration:

- Default RoLR – there must be one default RoLR for each electricity connection and for each gas distribution network at all times: and
- Additional RoLR's – one or more retailers may choose to be registered as additional RoLRs for connections points or gas distribution systems. If registered, the additional RoLR may be appointed as the designated RoLR in a RoLR event.

The AER proposes to register two categories of additional RoLR's – those with firm offers and those with non firm offers. Additional RoLRs with firm offers would commit to take on certain numbers of customers at a specified cost or no cost. These offers would be open for a fixed period, these retailers may be appointed as RoLR without further consultation. Additional RoLRs with non firm offers is similar to those for additional RoLR with firm offers, however it allows the retailers nomination to be indicative only and the AER would confirm the retailer's ability to be appointed and any terms and conditions.

4.2.1 RoLR registration criteria

Q 4. Stakeholders' comments are sought on the matters the AER should consider in relation to the RoLR criteria, namely:

- organisational and technical capacity
- the financial resources test
- suitability.

Q 5. 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.

Q 6. Stakeholders' comments are sought on any other matters the AER should include in the RoLR criteria

The businesses support the proposed criteria that the retailer should have the financial viability and financial capacity to meet all of its obligations if appointed as a RoLR. This includes the ability for the retailer to cover any increased prudential and distributor credit support costs with an expanded customer base.

All three criteria are extremely important for the ongoing management of customers and confidence and integrity in the market. In order to avoid a cascading RoLR event, the designated or default RoLRs need to have the capability to deal with increased prudentials at very short notice to cover an expanded customer base. Organisational and technical capability and also suitability would follow closely behind.

In relation to suitability, the AER will consider the number of customers the retailer has, the class or classes of customers the retailer has, and the area or areas that the retailer currently serves. A further criterion will be included for gas, the availability of supply where there is no declared wholesale gas market or short term trading market.

Where there is no declared wholesale gas market, the ability of a retailer to serve customers in the gas network in a RoLR event would need to be the defining criteria for RoLR registration against the gas distribution network. Ideally the retailer registered as the default RoLR, would need to demonstrate that it has the appropriate contractual arrangements to supply any transferred customers as opposed to using/relying on the AER directions in NERL clause 137.

4.2.2 Registration of default RoLRs

> Q 7. 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.

The businesses agree with the AER's view that a regular turnover of default RoLRs has the potential to increase the overall cost of the RoLR scheme which is ultimately paid for by customers. The AER highlights the need to review the default RoLR arrangements if a default RoLR fails or if a merger or acquisition occurs.

Default RoLRs should be considered an evergreen appointment. Default RoLRs should only be reviewed based on certain triggers as opposed to being reviewed on a regular basis.

The AER could consider calling for expressions of interest after a RoLR event or on request from an interested retailer to become a default RoLR. Mergers or acquisition should not unduly create the need to call for EOI for default RoLRs unless the merger/acquisition reduces the number of default RoLRs in the market due to the size of the merger or where a trade sale (partial strategic exit) significantly changes the suitability of the default RoLR.

4.2.3 Areas of registration

> Q 8. 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)?

To provide a consistent approach between electricity and gas, and with the current ESC allocations, the businesses support one default RoLR for each electricity network area in Victoria in preference to allocation of default RoLR by TNI. The simplicity of this approach would be suitable for a 2nd tier retailer failure and would probably best meet the objective of quick and simple to implement and effectively communicate.

Allocation of a default RoLR at the TNI level in Victoria may be preferable only where the failed retailer has a large customer base e.g. local retailer failure. This allows the customers to be spread across multiple designated RoLRs within a network area as opposed to a spread which may be gained by different default RoLRs for each of the five electricity network business.

4.3 Proposed default RoLR registrations for first start jurisdictions

> Q 9. Should current jurisdictional RoLRs be registered as default RoLRs in 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.
>
> Q 11. The AER is interested in hearing from any party wishing to express interest in being a default RoLR for the commencement of the NECF.

The businesses support the AER view that the current jurisdictional RoLRs will be registered as the default RoLRs in the first instance under NECF. The business note that there is no default RoLR for many of the postcodes in the South Gippsland gas network, the AER will need to address this gap.

The AER appears to be adopting the criterion used by the ESC to assess the application for retail licences for both new retailer authorisation and for registration as RoLR. On this basis decisions made by the ESC regarding default RoLRs for 2nd tier or 1st tier retailer failure should provide a satisfactory starting point. The ESC RoLR decisions have been developed after extensive consultation.

The default RoLR should be considered an evergreen role until there is a trigger, need or request that generates a need to run an expression of interest process. The concept of an initial term of registration is misleading as there must always be a default RoLR, a retailer cannot relinquish this role until the AER appoints a new default RoLR.

4.4 Registration of Additional RoLRs

4.4.1 Areas of registration

> Q 12. 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)?

Registration of the additional RoLR at the TNI level would provide more certainty regarding allocation for a large RoLR event where the additional RoLR became the designated RoLR for part of a network area.

The more designated RoLR's allocated within an electricity network area, the longer it will take to carve up customer data lists and in progress service orders for the correct retailers. The more complexity in the allocation of RoLRs, the more likely that there may be errors or poor customer experiences. The industry is also managing business as usual processing whilst transferring customers away from the failed retailers in a RoLR event.

AER decisions regarding multiple RoLRs (or remaining with the default RoLR) should strive for simplicity of the RoLR allocation, and consequential processing and communication.

The Issues Paper suggests that the AER may make a decision for multiple RoLRs (default and additional RoLRs with firm offer) where there is between 3 and 48 hours notice. The AER needs to make a clear decision on the designated RoLRs at the time of the RoLR trigger and well before the next market day. This is likely to afford the AER very little time to contact impacted parties to ensure that the additional RoLR is able to take on the task.

The businesses do not support additional RoLRs being able to cherry pick customers or choose certain postcodes at the expense of the default RoLR and more complex allocation and processing.

4.5 Categories of registration

Q 13. Do stakeholders support the two categories proposed for additional RoLR registration? Please set out your reasons why / why not.

Q 14. Should there be any other categories for additional RoLR registration?

Q 15. How long should a firm offer apply?

Q 16. How should firm offers be re-submitted to the AER?

The AER is proposing that there be two categories of additional RoLR;

- additional RoLR with firm offers; and
- additional RoLR with non firm offers.

A non firm offer is not binding on the retailer, the AER would still need to assess that the additional RoLR with the non firm offer is capable of meeting the RoLR obligations and prepared to be appointed on the terms and conditions previously provided.

It seems unlikely that a RoLR event would unfold over a period of greater than 48 hours, to allow the AER to confirm with the additional RoLR with a non firm offer their continued/current preparedness to become a designated RoLR. On this basis the non firm offer may not provide much value to the market and consumers overall. Rather it may have the potential to add unnecessary complexity and create uncertainty.

4.6 AER RoLR register

Q 21. Please identify any problems with the full disclosure of registration conditions and indicate whether it would influence your decision to seek additional RoLR registration?

The businesses support the publication of the registration of default RoLR and additional RoLRs, including conditions/possible allocations. This allows the businesses some understanding of additional RoLRs who may become the designated RoLR on UED and the two Multinet distribution areas.

4.7 Review of RoLR registration

> Q 22. Do stakeholders agree with the proposed three year review period for default RoLRs? Please set out your reasons why / why not.
>
> Q 23. What circumstances or events should require the AER to review the registration of a default RoLR?
>
> Q 24. Do stakeholders agree with the proposed two year review period for additional RoLRs with non-firm offers?

The AER proposes the following review periods:

- Default RoLR every 3 years; and
- Additional RoLRs with firm offers every three months; and
- Additional RoLRs with non firm offers every two years.

The AER is proposing to review the default RoLRs to see if there are material changes in the retailer's ability to act as a RoLR. The AER process is unclear, how will the AER assess the ongoing default RoLR capability without creating an unnecessarily administrative process? If there are no additional RoLR or other retailers willing to be assigned as the default RoLR, with the same or better capability than the default RoLR, it is unclear what may be gained.

Triggers to review the registration of a default RoLR could include:

- Late payment to distributors; or
- Significant levels of complaints or compliance issues; or
- Mergers which result in the reduction of the number of default RoLRs in the market.

4.8 RoLR designation criteria

Q 25. 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.

Q 26. 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 imminence of the RoLR event and availability of any additional RoLRs to choose from may dictate which retailer is the designated RoLR.

The businesses concur with the AER that the simplest solution would be to appoint as few RoLRs as possible. The businesses agree that one RoLR designated per network area (subject to size of failed retailer) would simplify communication and customer data provision, management of in flight service orders etc.

Where high energy prices have triggered the RoLR, care should be taken that market stability and confidence (i.e. the RoLR criteria) should take precedence over minimising the cost (i.e. the RoLR cost recovery). It is in no ones interest to increase the potential for cascading retailer failure.

4.9 Timing consideration and appointment options

> Q 27. 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.
>
> Q 28. 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 (bearing in mind the AER's need to make a decision promptly)?
>
> Q 29. 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.
>
> Q 30. To help the AER make appointment decisions, what sort of information should the AER seek:
>
> (a) from retailers lodging an EoI
>
> (a) from failing retailers under contingency events?
>
> Q 31. Is the time proposed for retailers to respond to a request for EoIs adequate? Please set out your reasons why / why not.

The businesses sentiments to these questions have been expressed above in relation to Q25 and Q26.

In appointing a registered RoLR to be the designated RoLR, the AER may like to undertake some spot checks that the retailer in question is paying network bills on time. This could be a concern where the retailer is experiencing a cashflow issue and the appointment as RoLR may be automatic.

4.10 Appointment of Multiple RoLRs

Q 32. In which situations are multiple RoLR appointments necessary and/ or desirable?

Q 33. In the case of large retailer failures, what sorts of factors might require multiple RoLR appointments?

The Issues Paper notes that there may be multiple RoLRs appointed where there a number of additional registered RoLRs willing and capable of being appointed and there is time to consider the appointment or where there is a large retailer failure.

The businesses recommend that there be one default RoLR or one designated RoLR per electricity network area and per gas network area. It is important to keep the allocation of the RoLR simple and to maintain stability in the market.

Appointment of multiple RoLRs should not allow one RoLR to cherry pick customers at the expense of the other RoLR.

4.11 Backup RoLR arrangements (failure of default RoLR)

Q 34. 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.

Where a local retailer fails, the Issues Paper suggests that the local retailers load is assigned to the remaining incumbent retailers. The businesses have the following concerns:

- Where one of the three Victorian incumbents failed, the failure could occur across electricity and gas. This is a significant failure and may need Government intervention; and
- The same few Victorian incumbents may also have significant RoLR obligations interstate.

The businesses support the concept of assigning two retailers as RoLR's based on TNI allocation in a single electricity network area where a local retailer fails.

For gas, the businesses support the appointment of the other local retailer as RoLR in the event of a local retailer failure.

The businesses note that the concept of local retailer is being altered in the Victorian gas market framework. These changes will be made by the SA Minister without consultation. It may be useful and avoid confusion if the term local retailer were able to be used consistently across regulatory frameworks – NECF, Gas Industry Act (GIA), National Gas Rules (NGR) etc. As transitional arrangements become clear, the use of terminology may need to be reviewed. Providing clarity of AER standing instructions and default RoLR by network area can eliminate interpretation issues. We recommend that a copy of the AER standing instructions be included in the RoLR subject matter area of the AER website.

4.12 RoLR notices – directions for gas

Q 35. Stakeholders' views are sought on how the AER should use its powers under section 137 of the Retail Law including: (a) when the AER should make a direction for gas? (b) any circumstances in which the AER might amend (or revoke) a direction? (c) any consequences from the AER amending (or revoking) a direction? (d) any other implementation issues arising from section 137?

No comment.

5 RoLR Cost Recovery Scheme

The NERL provides for certain RoLR cost to be recoverable:

- In the case of default RoLRs – costs incurred in preparing for a RoLR event:
- In the case of designated RoLRs (additional or default RoLR) – the costs incurred on and after the RoLR event.

The NERL requires the AER to determine on application by a registered RoLR, a RoLR cost recovery scheme. In making a determination on cost recovery for a RoLR, the AER must be guided by the NERO and the following principles;

- The registered RoLR should have a reasonable opportunity to recover reasonable costs that it incurs;
- The return should be commensurate with the regulatory and commercial risks with respect to the RoLR scheme; and
- The registered RoLR will itself bear some costs in proportion to its customer base.

As part of the AER's determination on the RoLR cost recovery scheme, the AER will also make a distributor payment determination, i.e. that one or more distributors make payments to the RoLR.

5.1 Principles for assessing RoLR cost recovery schemes

Q1. Are the factors listed above appropriate?
Q2. Are there any additional factors that the AER should consider?

The businesses generally support the factors listed in the Issues Paper.

The Issues Paper suggests that the approach should not compromise the financial position of the RoLR and should aim to minimise the risks of the RoLR itself defaulting. Whilst the businesses support this position, the AER should also give consideration to the distributor having minimal/no cashflow impact in any RoLR payment determination of the RoLRs costs.

In a RoLR event, the distributor will be carrying unpaid DUOS and TUOS (for electricity) for some time until the AER makes a determination on the RoLR pass through event. It may take some time from the RoLR event to the complete recovery of unpaid network charges e.g. a two year period. The distributor should not have to carry the cashflow impacts of the unpaid network charges and the RoLRs additional costs.

The AER should also consider not only transparent and robust decision making, but also timely decision making. Given the RoLR contracts may be used for 3-6 months depending on the customer size, any RoLR cost recovery applications may take some time to collate and approve. Timeliness of processes in relation to distributor annual pricing proposals and retailer tariff gazettals will also be important.

5.2 Mechanisms for recovery costs

The Issues Paper proposed three possible mechanisms for recovering RoLR costs as outlined in the table below.

Mechanism	Ex ante or ex post assessment framework	Burden of cost recovery	Estimated time to recover costs	Relative administrative cost of recovery mechanism
Up front fee	Ex ante	Customers of the failed retailer	<6 months	Low
Retail tariff variation	Ex post or ex ante	Customers of the failed retailer	6-12 months	Medium – high
Distribution network tariff variation	Ex post or ex ante	Customers connected to the relevant distribution network	About one year	Medium – high

Q18. Are there any particular problems or difficulties with the cost recovery mechanisms discussed above?
Q19. Are there are any other appropriate cost recovery mechanisms?
Q20. What is the most appropriate cost recovery mechanism for each class of cost that a RoLR may recover?
Q21. For a distribution network tariff variation, what are the relevant considerations when determining which distributor should make payments to the retailer?
Q22. If more than one distributor is required to make payments towards the costs of the scheme, how should the costs be divided between each of the distributors?

The businesses support the upfront fee but note that it may be problematic for the RoLR to recover its costs.

The distributor network tariff variation allows a smearing mechanism across all customers in a network area. The default RoLRs preparation for a RoLR event provides a mechanism which ensures that all customers have at least one default RoLR to enable continued supply. On this basis it is reasonable that all customers contribute to the default RoLR's preparedness/capability via the distributors acting as a smearing mechanism. Although all default RoLRs will have gas and electricity capability for a RoLR event by at least Q2 2011.

The businesses do not agree with the possible timeframe proposed as the Issues Paper suggests that a RoLR cost recovery application may be made within 9 months of a RoLR event. The AER may, at best, make a RoLR cost recovery determination within a year of a RoLR event.

Any distributor payment determination (or distributor pass through application) will need to consider the commencement and length of time of the pass through and the ability to pass through the charges during a calendar year or as part of the next annual pricing proposal. This implies that the earliest that the RoLRs cost recovery could commence is 12-14 months after the RoLR event, if not a longer period of time.

The Issues Paper and NERL provide little clarity on whether the distributor is meant to provide the AER with a pass through application which covers the information outlined above. It is unclear whether the distributor is meant to provide this type of information into any consultation the AER may have on the distributor payment determination. The distributor may not understand what value of reimbursement is being sought from the distributor until the AER has decided on the ROLR cost recovery and the allocation of the RoLR costs to relevant distributors. The AER needs to provide more clarity regarding the distributor payments and distributor pass through process in further consultation.

In addition, all retailers will need to factor into their retail tariff gazettals and market contracts the ability to pass through these costs to all customers.

The Issues Paper states:

> 'Under this approach the distributor makes payments to the RoLR to allow it to recover its costs. The distributor then recovers these payments from all customers by varying its distribution network tariffs. The distribution network tariffs are varied under clause 6.6 of the National Electricity Rules or approved pass throughs under the gas access arrangements.'[1]

The businesses consider that the distributors should have no cashflow impact arising from payments to the RoLR and distributors should be kept financially whole in relation to the RoLR cost recovery process.

Given the lengthy time from costs incurred by the RoLR to the retailer's cost recovery, the network tariff variations should include a time value of money component so that the RoLR remains financially whole.

The AER has sought views on the mechanism for determining which distributor should make payments towards the cost of the scheme. Where more than one distributor makes payments, the AER is also interested in how the costs should be divided across the distributors.

[1] Retailer of last resort cost recovery scheme, Issues paper, AER, Nov 2010, p26

The AER could employ a number of different smearing mechanisms:

- All designated RoLR costs smeared evenly across all customers in the market, allowing a consistent cost per customer for all customers receiving electricity or gas regardless of distribution network/jurisdiction;
- The total jurisdictional costs of the designated RoLRs in the jurisdiction could be divided evenly across all distributors based on distributor customer numbers, allowing a consistent cost to all customers in Victoria;
- The costs of the relevant designated RoLR could be allocated to the distributor based on the number of failed customers in that distribution area, the charge per customer in a distribution area could vary from one distributor to another.

Where the AER adopts a single designated RoLR/default RoLR for each distribution area it would be simplest if the costs were recovered from that one distributor.

Where a default RoLR has a cost recovery determination for RoLR preparation costs and the RoLR is a default RoLR in more than one distribution area or jurisdiction, then the costs could be allocated to each distribution area based on customer numbers.

Where a designated RoLR is designated for more than one distribution area then the RoLR event costs for the designated RoLR could be allocated to each distributor based on the number of failed customers in each distribution area or based on the number of customers in each distribution area.

The businesses prefer a cost recovery arrangement that minimises additional operational costs and is administratively simple. One designated RoLR per distribution network with recovery of the relevant RoLR costs from the customers in that one distribution network would appear simplest.