



AUSTRALIA & NEW ZEALAND
ENERGY AND WATER
OMBUDSMAN NETWORK

13 November 2008

Manager, MCE Secretariat
Department of Resources, Energy and Tourism
GPO Box 9839
Canberra ACT 2601

By email: MCETMarketReform@ret.gov.au

Dear Manager, MCE Secretariat

Re: MCE SCO Draft Consultancy Report on Retailer of Last Resort

Thank you for the opportunity to comment on the Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO) Draft Consultancy Report on Retailer of Last Resort ('the Consultancy Report'), as released on 3 October 2008.

This is a joint submission by the members of the Australia & New Zealand Energy and Water Ombudsman Network (ANZEWON) listed below.

Our core business is resolving customer disputes about the essential services of electricity, gas and in some jurisdictions, water. We are therefore able to contribute our experience of customer issues to the discussion of provisions surrounding Retailer of Last Resort arrangements.

ANZEWON members believe that the proposed framework, as set out in the Consultancy Report, provides an important overview and a comprehensive approach for achieving the objective of all-inclusive national Retailer of Last Resort (RoLR) provisions.

In contributing to the further development of a relevant framework, ANZEWON members offer the following comments.

Principle 10: Customers of the failed retailer should bear the costs of failure, to the extent practicable

ANZEWON members have concerns about this proposed principle. The rationale for this principle is stated in the Consultancy Report, as follows:

“Instead the costs should be borne by the customers of the failed retailer as far as possible. This provides an incentive for customers to consider the risk of retailer failure in signing up with a new retailer and avoids the issues associated with moral hazard”¹.

The footnote associated with this sentence states:

“The concept of moral hazard in this context is that if energy customers know that they will not bear (sic) the costs associated with a failed retailer, then they have an incentive to undertake greater risks, such as signing with a high risk retailer who is offering extremely low prices.”²

By accepting this as a principle, consideration of other mechanisms of dealing with costs arising from a RoLR were not provided. Options such as an industry levy or an industry wide insurance scheme appear not to have been considered by the consultants, and would be worthy of exploration.

If the MCE is to accept Principle 10 then it follows that there will be an even greater need for customers to be given adequate information and warnings about potential retailer failure in all contract offerings and in contracts. This would then need changes to the minimum information currently required in the proposed National Energy Consumer Framework.

ANZEWON members suggest a revision to Principle 10 to limit as much as possible the cost of retailer failure to the small retail customer.

Where such costs are unavoidable, generous exemptions are warranted to ensure that customers in financial hardship are not adversely impacted, eg customers with concession cards and in hardship programs. Such exemptions, rebates or concessions from RoLR supply charges would reduce the level of consequent disconnection and affordability issues and customer complaints.³

Other matters

ANZEWON members support the Consultancy Report’s approach (as noted on page vi) of providing initial protection to all customers, large and small, in the first instance.

ANZEWON members also support the approach (as noted on page vii) of minimising incentives for retailers to voluntarily invoke a RoLR event.

From the ANZEWON perspective it would be of benefit both to customers and other retailers for regulations to require continued membership of the prescribed dispute resolution scheme for 12 months after a company voluntarily invokes a RoLR event. Such an approach would help to ensure that outstanding customer disputes could be settled and that other retailers would not bear added costs of customer complaints.

¹ MCE SCO Draft Consultancy Report on Retailer of Last Resort September 2008. P40

² Ibid P40

³ For more details about this suggestion, see EWOV’s 20 February 2008 comments in response to the Victorian Essential Services Commission’s *Retailer of Last Resort Customer Charges: Draft Decision (February 2008)* – on www.ewov.com.au (under ‘Responses to regulatory authorities’).

We would be pleased to discuss these comments or provide further information to MCE SCO as required.

Yours sincerely



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