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Manager MCE Secretariat,
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2601

By email to: MCEMarketReform@ret.gov.au

Dear Sir/ Madam,

EnergyAustralia's submission on MCE Consultation paper on Retailer of Last Resort (RoLR)

EnergyAustralia is pleased to participate in consultation on proposed reforms to RoLR in the NEM. We note that RoLR arrangements have ramifications for retailers and distributors. This submission focuses on the implications for distributors from the proposed scheme. In particular, we note that the paper's recommendation for indirect costs of a RoLR to be recovered through a distributor is a complex and unnecessary arrangement. Instead, we consider that the AER should make a determination specifying the amount each retailer should pay the RoLR.

Distributors have a keen interest in the development of a national RoLR scheme. We consider that the key principle of such a scheme should be to minimise the risk of cascading retail failure. This is because distribution businesses are exposed to significant loss of revenue from the default of 'use of system' payments by failed retailers. We also note that the consultation paper has not raised the issue of the direct costs incurred by distributors in a RoLR event. For instance, the direct and unrecoverable costs to our business from the collapse of EnergyOne in 2007 were about \$30,000. It is important that the MCE consider these issues as part of the final scheme.

We strongly support the key policy recommendation for retailers to be the RoLR as distributors do not have systems to develop and maintain retailer functionality if a RoLR event occurs. The paper is silent on whether a distributor would be the RoLR if all retailers were to fail in a jurisdiction or whether other emergency management provisions would apply. We note that such emergency management provisions would require consideration and extensive consultation with stakeholders.

Our primary concern with the proposed framework (from a distribution network perspective) relates to the proposed cost recovery process. Under this process, the RoLR would recover the indirect costs associated with a RoLR event from distributors. A distributor would then 'pass through' this payment to all retailers in its network. We understand that the purpose of such a mechanism is to smear the indirect costs of the event across customers in a jurisdiction rather than only the customers of the RoLR.

We consider it is unnecessary and inefficient to involve a distributor in the proposed cost recovery process. A more simple process would involve the AER making a determination specifying the amount that each retailer must pay the RoLR directly. This would avoid the MCE having to consider complex matters that arise from the implementation of the proposed arrangements including:

- Would a distributor recover its costs from retailers based on customer numbers or energy consumption?
- Would a distributor be required to make an upfront payment to the RoLR and if so, would it be allowed to pass through the net present value of that payment to retailers?
- On what basis would costs be allocated between distributors?

If the MCE does decide to involve a distributor in the cost recovery process, it will need to carefully consider the drafting of the Rules. The MCE's paper indicates that the provisions of the network pricing rules will need to be amended to specifically address pass through of costs by the distributors. The paper also proposes that distributors should be permitted to pass those costs onto customers without requiring further approval from the AER.

EnergyAustralia considers that amendments for the RoLR should be separate to the pass through provisions in the Rules. Pass through events are for material increases and decreases in costs incurred in providing *standard control services*.¹ Rather than amending the pass through provisions, it would be less complex to make a direct provision in the Rules, enabling a distributor to recover the full payment made to the RoLR without further AER approval. Similar direct provisions have been made to allow NSW distributors to recover a payment made to the Climate Change Fund.²

On a separate matter, we note that the paper has not considered how the scheme would apply to islanded networks. There may be substantial delays in ensuring that a distribution network is able to meet the capacity supplied and consequently a period of time before the RoLR would be able to meet its obligations to supply.

We understand that the RoLR framework is not sufficiently developed to be included in the draft exposure of the National Customer Laws and Rules. We would, however, expect the MCE to provide stakeholders with sufficient time to comment on further policy development and draft Laws and Rules relating to the RoLR scheme.

If you have any questions or would like to discuss any aspect of this submission in greater detail, please do not hesitate to contact Ms Catherine O'Neill on (02) 9269 4171.

Yours sincerely



Trevor Armstrong
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System Planning and Regulation

¹ For example, the definition of *regulatory change event* in Chapter 10 of the Rules and Clause 6.6.1(j)(2) of the Rules.

² Clause 6.18.2(b)(5A) of Appendix 1 of the Rules (NSW transitional Rules).