



14 November 2008

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

Email: MCETMarketReform@ret.gov.au

Dear Sir/Madam

RETAILER OF LAST RESORT DRAFT CONSULTANCY REPORT

Ergon Energy Corporation Ltd (EECL) and Ergon Energy Queensland Pty Ltd (EEQ) (together referred as Ergon Energy) welcome the opportunity provided by the Ministerial Council on Energy to comment on the *Retailer of Last Resort – Review of Current Jurisdictional Arrangements and Development of a National Policy Framework* draft consultancy report (consultancy report).

This submission is provided by EECL in its capacity as an electricity Distribution Network Service Provider in Queensland and EEQ in its capacity as an electricity area retail entity in Queensland.

Objectives of RoLR Scheme

Ergon Energy believes the objectives of a national Retailer of Last Resort (RoLR) Scheme should be (at a minimum) to ensure the integrity of the wholesale market settlements and payment arrangements between market participants (e.g. network use of system payments) and consumer protection. In light of the above objectives the principles outlined in the consultancy report for assessing alternative arrangements for the national scheme are generally considered appropriate.

Principles for Assessing Alternative Arrangements for a National RoLR Scheme

Whilst consumers in most National Electricity Market (NEM) jurisdictions have the ability to choose their energy retailer the level of consumer awareness of a retailer's financial status should not be over estimated or relied upon for the purposes of this assessment. Given the provision of electricity and gas (in some jurisdictions) is considered to be an essential service the regulatory arrangements surrounding the licensing of retailers generally aim to ensure all licensed participants are financially viable, satisfy the fit and proper person test and have the technical capability to perform retail services. Furthermore, retailers are required to demonstrate their financial viability to NEMMCO on an ongoing basis for the purposes of prudential requirements.

Due to the current licensing/business authorisation arrangements it would be reasonable for consumers to assume, to some extent, that a licensed retailer is reputable and of good financial standing. Therefore when deciding whether to accept a retailer's market offer, this decision should be largely constrained to the retailer's service and price offering rather than the financial suitability of the service provider. As such the potential and scope of moral hazard should not be over estimated.

Proposed Base Set of National RoLR Arrangements

Ergon Energy supports the upfront identification of the RoLR as it ensures all market participants and consumers are aware of their individual responsibilities and enables financial risks such as non-payment for services between market participants to be minimised. It is also important the RoLR process can be implemented in a timely manner.

Due to the complexity of the approach outlined in section 5, covering both pre and post the RoLR event, the ability to delivery a timely response is questionable. Particularly given the RoLR will not be established with any certainty until after the RoLR event has occurred. Whilst acknowledging the need to ensure against the possibility of cascading retailer failure, Ergon Energy believes most if not all of the RoLR framework should be established prior to a RoLR event.

Whilst the application of RoLR responsibilities to the largest retailer in each local retail area is administratively simpler than a voluntary RoLR arrangement, consideration should be given to current jurisdictional arrangements. Under the mandatory process and assuming current levels of competition in the local retail area, EEQ would be required to assume the role of RoLR. However, under current Queensland legislation (*Electricity Act 1994*) and Government policy, EEQ is precluded from providing retail services to customers that have accepted a market contract. EEQ is also precluded from offering customers a market contract. This means, that once a premise has moved away from EEQ, it is not able to have EEQ as its retailer in the future. Therefore, the proposed mandatory process could not apply to the EEQ local retail area.

Provision for Ex-post Recovery

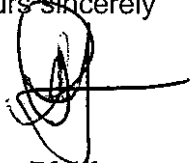
Ergon Energy supports the inclusion of an ex-post cost recovery mechanism for additional material costs. However if these costs are to be recovered via a levy on distribution businesses the RoLR legislative framework should mandate that distributors are able to pass these costs through to consumers. Failure to provide for a pass through mechanism will have a detrimental impact on distributors, irrespective of whether they are regulated under a price or revenue cap, as they will be precluded from passing through the associated costs.

Current Jurisdictional Arrangements – Queensland

In terms of RoLR appointment, it should be noted that appointment is not based on the first tier retailer for a distribution area in Queensland. Rather, Origin Energy would be appointed RoLR for both the Energex and EECL distribution areas, but Origin Energy is only the first tier retailer in Energex's distribution area. Country Energy is not a distribution entity for the purposes of Queensland legislation and therefore does not have a distribution area rather it has a supply area under a special approval. In the event of a retailer failure, Country Energy would be appointed RoLR for its supply area.

If you have any questions or require any further information on the matters raised please do not hesitate to contact me on (07) 3228 7711.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Tony Pfeiffer', with a horizontal line extending to the right.

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