



22 June 2023

Sam Markham  
Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000

Dear Sam

RE: Review into the arrangements for failed retailers' electricity and gas contracts

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) review into the arrangements for failed retailers' electricity and gas contracts Direction Paper.

#### About Shell Energy in Australia

Shell Energy is Shell's renewables and energy solutions business in Australia, helping its customers to decarbonise and reduce their environmental footprint.

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves more than 185,000 households and small business customers in Australia.

As the second largest electricity provider to commercial and industrial businesses in Australia<sup>1</sup>, Shell Energy offers integrated solutions and market-leading<sup>2</sup> customer satisfaction, built on industry expertise and personalised relationships. The company's generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and the 120 megawatt Gangarri solar energy development in Queensland.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website here.

#### General comments

Shell Energy thanks the AEMC for the opportunity to provide comments to the Review into the arrangements for failed retailers' electricity and gas contracts directions paper (the Paper). Shell Energy broadly supports the recommendation set out in the Paper and the intent to improve the Retailer of Last Resort (RoLR) framework and we acknowledge the continued consultation with industry on the complex set of issues presented by the Paper.

Although not a designated participant to current RoLR arrangements, Shell Energy supports the submission made to the Paper by the Australian Energy Council.

#### *Declaration of a gas market administered pricing period (post RoLR event)*

Shell Energy has noted what we consider to be a significant omission from the previous consultation paper, the directions paper and various forums into the need for the Australian Energy Market Operator (AEMO) to activate an administered pricing period (APP) for a defined period of a minimum number of days due to a RoLR event. We note that no complementary provisions for the automatic activation of an APP exist in the National Electricity Market (NEM). Shell Energy supports the AEC's submission for the removal of clause 428 (1)(d) of the RoLR provisions as well as amendments arising from this to two subordinate AEMO process documents as set out below.

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<sup>1</sup>By load, based on Shell Energy analysis of publicly available data.

<sup>2</sup> Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

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Shell Energy believes that to remove a RoLR event from the provisions for triggering an administered pricing period, the Short Term Trading Markets (STTM) would require a rule change, the first part of the broad rule change would be to remove this clause.

Additionally, part 2 of the rule change would be to require AEMO to remove Section 8.3 of AEMO's STTM procedures – Major and Minor Retailer of Last Resort Events.

Finally, there would be a need for AEMO to remove Section 3 of AEMO's Wholesale Market Administered Pricing Procedures (Victoria).

Shell Energy considers that in the event a retailer failure event due to sustained price outcomes triggered the RoLR provisions, the gas markets cumulative price threshold (CPT) would be exceeded with a gas market(s) APP already declared. Conversely, in the event a retailer failure event triggered the RoLR provisions outside a price event period, we consider that activating an APP would have a detrimental impact on the efficient functioning of the gas markets and potentially lead to perverse market outcomes. Price capping leads to large and potentially unsustainable withdrawals in and from the region and/or a reduction in supply offers subject to the administered price cap (APC).

Such inefficient market outcomes were observed during the RoLR and subsequent RoLR activated APP events in May and June 2022 where APPs were imposed following a RoLR event in the Sydney and Brisbane STTMs and the Victorian Declared Wholesale Gas Market (**DWGM**).<sup>3</sup> The inefficient impact of the RoLR event triggering an APP in the Sydney STTM ultimately led to intervention by the NSW Energy Minister who directed AEMO to end the Major RoLR event APP on the Sydney STTM. In the case of the DWGM, the APP remained in place for the whole month of June and in our view was a factor in AEMO declaring a gas supply shortfall in June 2022, and a threat to system security in the DWGM in July 2022.

It is unclear to Shell Energy if an APP based on an exceedance of the CPT due to sustained high prices would have occurred, absent the automatic implementation by AEMO of APPs in the Sydney and Brisbane STTMs and the Victorian DWGM due to the RoLR event. We consider it was the inefficient and perverse market outcomes caused by the RoLR APP events that ultimately led to an exceedance of the Sydney STTM and Victorian DWGM CPT values.

Shell Energy can only contemplate that the gas markets RoLR APP provision was implemented to protect the RoLR from high gas prices in the initial stages of a RoLR event. Given the changes recommended in the Paper, we question if this requirement remains fit for purpose. It is unclear to us as a participant in both the retail and wholesale gas markets if any economic benefit from the provision outweighs the demonstrated inefficient and perverse market outcomes it causes. While there have been a number of RoLR events in the NEM, none of these have led to the demonstrated inefficient market outcomes in the gas markets and the high level of market intervention caused by the RoLR APP provisions.

## Conclusion

Given the changes proposed to the RoLR framework we see no benefit to the efficient function of the gas markets by the continued inclusion of the RoLR APP provision in the Rules and AEMO subordinate documents. Shell Energy recommends that these be removed as part of this review process.

If you have any questions in relation to this submission, please do not hesitate to contact Alan Love at [alan.love@powershop.com.au](mailto:alan.love@powershop.com.au).

Yours sincerely

James Ell  
Acting GM, Regulatory Affairs and Compliance

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<sup>3</sup> AEMO Quarterly Energy Dynamics Q2 2022 Report – Section 2.1.2 page 42