



Retailer insolvency costs - pass through provisions

Commencement of consultation on rule change request

The Australian Energy Market Commission has today commenced public consultation on a rule change request that seeks to allow distributors to recover revenue, following a retailer insolvency event, through the cost pass through provisions.

Details of the rule change request

The rule change request was received from the Council of Australian Governments Energy Council (COAG Energy Council). It proposes:

- to amend the distribution cost pass through provisions in the National Electricity Rules (NER) to allow distributors to recoup their unrecovered revenue for direct control services that have been provided, but remain unpaid by retailers that have become insolvent; and
- to enable cost pass through applications for retailer insolvency events to be approved by the Australian Energy Regulator without being subject to the materiality threshold that is usually applied to cost pass through events.

The proposed changes are sought to correct drafting errors in the NER, and to better reflect the original policy intent of the cost pass through provisions, in relation to retailer insolvency events, under the National Energy Customer Framework.

If made, the effect of the proposed rule would be that if a distributor cannot recover its charges in full following the insolvency of a retailer, the unrecovered revenue would be collected from the distributor's customer base, thus keeping the distributor whole.

Background

The current cost pass through provisions allow distributors to recover the *increase in costs* arising from nominated pass through events, provided the quantum of costs to be passed through meets a materiality threshold. These events include retailer insolvency events.

The cost pass through provisions do not, however, provide for the *recovery of lost revenue*; that is, the recovery of payment for the provision of regulated distribution services provided to a retailer, but which remain outstanding, following the insolvency of that retailer.

Distributors may access other revenue recovery options, such as drawing down on available credit support or recovery through a formal insolvency process as an unsecured creditor. However, these other options may be uncertain, in terms of the timing and extent of recovery that might be achieved.

The COAG Energy Council considers that the full recovery of revenue by distributors, under these specific circumstances, is appropriate. This is because the NER imposes particular obligations of supply on DNSPs but limits their ability to independently manage the commercial risks associated with such supply.

Submissions on the consultation paper and rule change request are due by 11 December 2014.

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