



Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

26 November 2015

Email: submissions@aemc.gov.au

Dear Mr Pierce

**ERC0183: RETAILER-DISTRIBUTOR CREDIT SUPPORT REQUIREMENTS —
OPTIONS PAPER**

CitiPower Pty Ltd and Powercor Australia Limited (**the Businesses**) welcome the opportunity to respond to the options paper by the Australian Energy Market Commission (**AEMC**) in relation to retailer-distributor credit support arrangements.

The Businesses face significant commercial risks from the potential failure of a retailer to pay its network and associated charges. Following full retail price deregulation in 2009, the number of retailers operating in Victoria has continued to grow. However, as regulated businesses, we do not have the ability to refuse to provide services to a customer or deal with a particular retailer. The current regulations generally provide a retailer with a generous credit allowance, without the need to provide credit support, irrespective of whether the retailer has an investment grade credit rating or a sub-investment grade or “junk” credit rating.

To manage the risk associated with retailer default, we support the AEMC’s Option 3 relating to the introduction of a retailer default fund. We consider that this option:

- is the only option that provides “true” credit support to distributors, as it provides actual funds available for distributors to call upon;
- appropriately allocates risk to retailers, as they have the greatest individual control over their own risk of becoming insolvent and defaulting;
- is not novel given the precedent of the Participant Compensation Fund under the National Electricity Rules (**Rules**);
- could work in parallel with the retailer insolvency pass through event, and the unders and overs process under a revenue cap; and
- reflects the principles of best-practice regulation, and is likely to promote the long-term interest of consumers.

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We recognise that the scheme is only discussed conceptually, and that there would be a range of critical design and implementation issues that would need to be discussed with industry. For example, the size of the fund and level of the contributions. While the approximately \$1 billion fund was used for modelling purposes in the AEMC's options paper, a smaller commercial fund size could be proposed, such as two per cent of Total Annual Retail Charges (**TARC**) per retailer. The fund could also be reviewed over time to cater for price changes and the dynamics of the industry.

Such a fund may also be less costly to retailers in some jurisdictions compared to the current arrangements using bank guarantees. AGL identified high direct costs of bank guarantees and facility commitment fees in its Rule change request.

Finally, we support the intent of the Council of Australian Government Energy Council retailer insolvency cost pass-through Rule change, namely:

- removing the materiality threshold, where one applies; and
- clarifying the provisions to ensure that foregone revenue is included in the costs distributors are able to recover in the cost pass-through amount.

The Australian Energy Regulator (**AER**) has stated that since the National Energy Customer Framework has not been adopted in Victoria, the prescribed retailer insolvency event under the Rules does not apply to Victorian distributors.¹ We would be grateful if the AEMC could review the drafting of the legal instrument for the Rule change to assess whether the revised Rule could be written such that it applies in Victoria.

We would be pleased to discuss any aspect of this letter with the AEMC. Please contact Elizabeth Carlile on 03 9683 4886 or ecarlile@powercor.com.au.

Regards



Renate Tirpcou
Manager, Regulation

¹ AER, Preliminary Decision, *Powercor distribution determination 2016 to 2020*, October 2015, p. 15-21.