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Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Lodged web: <http://www.aemc.gov.au/>

Retailer insolvency events – cost pass through provisions: Consultation paper

The Energy Supply Association of Australia (esaa) welcomes the opportunity to make a submission to the Australian Energy Market Commission on the Retailer insolvency events – cost pass through provisions rule change.

The esaa is the peak industry body for the stationary energy sector in Australia and represents the policy positions of the Chief Executives of 36 electricity and downstream natural gas businesses. These businesses own and operate some \$120 billion in assets, employ more than 51,000 people and contribute \$16.5 billion directly to the nation's Gross Domestic Product.

esaa supports the proposed rule change request allowing network service providers (NSPs) to recover any unpaid charges that arise from a retailer collapse through a cost pass through.

This rule change request has been made by the Council of Australian Governments Energy Council on the basis it is correcting an oversight when the National Energy Customer Framework was drafted. The rules currently allow networks to recover costs associated with an insolvency event, but not to recover any unpaid charges. If this rule change is not made it will impact the ability of NSPs to recover unpaid monies in the event of a retailer collapse.

Normally a business should be responsible for managing their commercial risks. If NSPs were not restricted by the regulatory framework they could require retailers to provide a greater level of collateral to minimise their exposure in the event of a collapse, refuse to deal with potentially risky retailers or vary their prices for higher risk retailers. As the rules restrict the choices available to a NSP to manage the risk of unpaid monies in the event of a retailer insolvency, NSPs should not be expected to suffer a loss of revenue in the event of a retailer collapse. Similarly we support the removal of materiality threshold for a retailer collapse event, as NSPs do not have an ability to self-manage the consequences, a key reason for applying a materiality threshold.

esaa acknowledges the restrictions placed on NSPs are underpinned by a strong policy rationale, given the monopoly nature of networks. Given the likelihood of a retailer collapse is low, we do not support amending credit support arrangements for

retailers, as it will impose new costs and is likely to create a barrier to entry for small new retail entrants.

If it is accepted that NSPs should be allowed to recover any unpaid monies, the mechanism adopted should be as simple as possible. A cost pass through would be the most straight forward of the options considered in the Consultation paper. We do note that the recovery of unpaid charges is not technically a cost, but it does represent the most straight forward way to ensure NSPs do not have costs imposed on them they are unable to manage. As the costs associated with recovering unpaid charges are due to policy decisions, it is appropriate they are recovered from the customer base as a whole.

A cost pass through is likely to be faster and more predictable than dealing with a liquidation process. As such, if a NSP had the option it is very likely they would use a cost pass through instead of waiting to go through an insolvency process. As part of the changes allowing NSPs to use a cost pass through, a safeguard should be put in place that prevents a NSP from pursuing any additional revenue from the insolvency process, if they have opted for a cost pass through.

The proposed rule change is largely a moot point for NSPs subject to a revenue cap, due to the true-up process. But if the rule is not made, NSPs under a price cap will be exposed to the risk of unpaid charges. esaa proposes that NSPs under either a price or revenue cap should have the option to apply for a cost pass through for consistency. That said, a NSP under a revenue cap may opt to rely on the true-up process regardless.

If you have any questions relating to this submission, please contact Fergus Pope on 03 9205 3107 or by email to fergus.pope@esaa.com.au.

Yours sincerely



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