



Retailer-distributor credit support requirements

Submissions invited on draft rule determination

The Australian Energy Market Commission (AEMC) has made draft rules, applicable in both the National Electricity Rules and National Gas Rules addressing the mechanisms available to distributors to manage the risk of retailer default.

The Commission's decision

The Commission's draft rule determination, which includes draft more preferable rules, is intended to facilitate efficient and effective management of the risks faced by distributors from retailer default. The key features of the draft rules are as follows:

- enhance the operation of the retailer insolvency cost pass-through provisions by:
 - removing any materiality threshold applicable to the retailer insolvency costs that may be claimed through the retailer insolvency cost pass-through process;
 - confirming that unpaid network charges are included in a distributor's retailer insolvency costs; and
 - in the NGR, confirming that the retailer insolvency cost pass-through provisions take precedence over any inconsistent provisions in a distributor's access arrangement;
- provide that a distributor may request credit support from a retailer where the retailer, in the previous 12 months, has failed to pay in full:
 - the charges contained in three statement of charges by the due date for payment;
 - the charges contained in two consecutive statement of charges by the due date for payment; or
 - the charges contained in one statement of charges within 25 business days of the due date for payment;
- the amount of credit support the distributor may request is equal to the amount of the last statement of charges that triggered the request for credit support; and
- the existing retailer-distributor credit support requirements continue to operate between any distributor and retailer where that retailer is currently providing a credit support instrument to the distributor. This requirement exists given the accrued right of the distributor under the existing contractual arrangements associated with the credit support instrument.

Why has the Commission made the draft rules?

The Commission considers that the draft rules will, or are likely to, contribute to the achievement of the National Electricity Objective or National Gas Objective by minimising cost impacts of managing the risks faced by distributors from retailer default.

The AEMC considers that retailer-distributor credit support requirements are not required at this time, as existing regulatory- and market-based arrangements place sufficient incentives on retailers to manage their risk of default. The risks to distributors are further reduced from the enhancements to the retailer insolvency cost pass-through provisions.

The draft rules, in conjunction with existing statutory and commercial mechanisms, will:

- ensure distributors are able to collect unpaid network charges and any costs incurred in the event of a retailer default, thereby mitigating a distributor's revenue risk;
- have no impact on barriers to entry or expansion in the retail market, or on retail competition; and
- minimise costs to consumers over the long-term, as consumers would only face increased costs in the event of a retailer default rather than paying up-front costs for an event that may never occur.

Background

Electricity and gas distributors provide connection and supply of energy services to retail customers directly. The retailer is responsible to pay the network charges, incurred by its retail customers, to the distributor. A time lag exists between when the network services are provided to these customers and when the payment for those services is made by the retailer. Due to the combination of a time lag and distributors' not charging customers directly, distributors face the risk of retailer default and the subsequent non-payment of network charges. However, distributors are unable to price this risk into their relationship with retailers. Furthermore, distributors are obliged to deal with any and every retailer, regardless of each retailer's level of default risk.

The provision of credit support is one of a number of regulatory and commercial mechanisms available to distributors to manage the risks associated with retailer default. Credit support serves to limit distributors' financial exposure to retailer default.

The rule change requests and their consolidation

The Commission received two rule change requests from AGL, on 19 January 2015, to amend the retailer-distributor credit support requirements, for changes to the National Electricity Rules (NER) and the National Gas Rules (NGR), respectively.

In addition to AGL's rule change requests, the Commission received a rule change request from the Council of Australian Governments Energy Council (COAG Energy Council) to amend the retailer insolvency cost pass-through provisions in the NER. A consultation paper was published in relation to this rule change request and the first round of consultation closed on 11 December 2014. Submissions on the consultation paper indicated stakeholders saw a link between the retailer insolvency cost pass-through rule change request and the retailer-distributor credit support rule change requests.

Consequently, the Commission consolidated the COAG Energy Council's rule change request with AGL's rule change request relating to the NER. The two requests will be treated as one request and addressed under the process for the AGL rule change request.

The Commission also received a rule change request from Jemena Gas Networks, on 25 September 2015, to amend the retailer insolvency cost pass-through provisions in the NGR. This rule change request was consolidated with AGL's rule change request relating to the NGR.

Submissions

The AEMC invites submissions on its draft rule determination, including the draft rules, by 22 December 2016.

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