

# Review of the retailer of last resort scheme

## Final report published

The Australian Energy Market Commission (AEMC or the Commission) has published a final report which provides a set of targeted recommendations to improve the Retailer of Last Resort (RoLR) Scheme. The RoLR scheme is the mechanism, included in the National Electricity Retail Law (NERL), to be followed in the event of the failure of a retailer, to ensure the orderly transfer of retail customers to new retailers without disruption of supply. The recommendations seek to improve outcomes for small customers following a RoLR event and enhance the financial market resilience of the national electricity market (NEM) if a medium or large RoLR event should occur.

## **Context**

This review follows the Commission's analysis and similar recommendations in the 2020 Retail energy competition review final report to amend the RoLR scheme after assessing the effect of the pandemic on the retail electricity sector. The Commission considered that pandemic impacts heightened the risk of the failure of a retailer, or retailers with a large number of customers, due to a potentially significant increase in the number of customers who are deferring or unable to pay their bills.

On 8 October 2020 the ministerial forum of Energy Ministers (formerly COAG Energy Council) requested the Commission conduct this review to provide advice to governments on updating the RoLR scheme. The AEMC published a consultation paper on 22 October 2020 seeking stakeholder feedback on a number of specific issues and recommendations to improve the RoLR scheme.

## **Final report recommendations**

To improve outcomes for small customers following a RoLR event and enhance the financial market resilience of the NEM the Commission made the following recommendations, that the:

- NERL is amended to remove the requirement (but not the ability) for the small customers of a failed retailer to be transferred on to the standard retail contract of the designated RoLR. This would allow customers to be placed immediately on lower priced market offers and therefore face lower electricity bills, if a RoLR's market offer is approved by the AER.
- RoLR cost recovery arrangements in the NERL be amended to provide greater certainty to
  the designated RoLR(s) that they can quickly recover the efficient costs they incur following
  a RoLR event and that the failed retailer's customers will not bear the financial burden of
  their retailer's failure.
- RoLR scheme is amended to allow the AER to delay the designation of RoLRs by up to 24 hours following a RoLR event which gives the AER greater ability to appoint multiple RoLRs if appropriate.
- National Electricity Rules (NER) are amended to give the RoLR more time to meet AEMO's
  credit support requirements in relation to the RoLR customers it gains, noting that this may
  be a significant number of customers in the event of a large retailer failure or multiple
  retailer failures.
- NERL is amended to provide the AER with appropriate flexibility in its RoLR plan communication and publication requirements.

#### **RoLR review overview**

Attached to this information sheet is a set of diagrams outlining the process overview of the RoLR scheme. The diagrams highlight the five key time periods associated with the scheme and relevant regulatory processes and challenges for each period. It then provides an overview of each regulatory step within each period and the proposed changes to the current arrangements. This is designed to provide an easy to understand tool to conceptualise the RoLR scheme, the current arrangements and the proposed arrangements.

## **Next steps**

In this report, the Commission presents policy advice that can be further developed into law and rule changes that will address the issues present in the RoLR scheme. If the recommendations are accepted by jurisdictions, law changes to the NERL will be progressed by jurisdictions in coordination with rule changes by the AEMC.

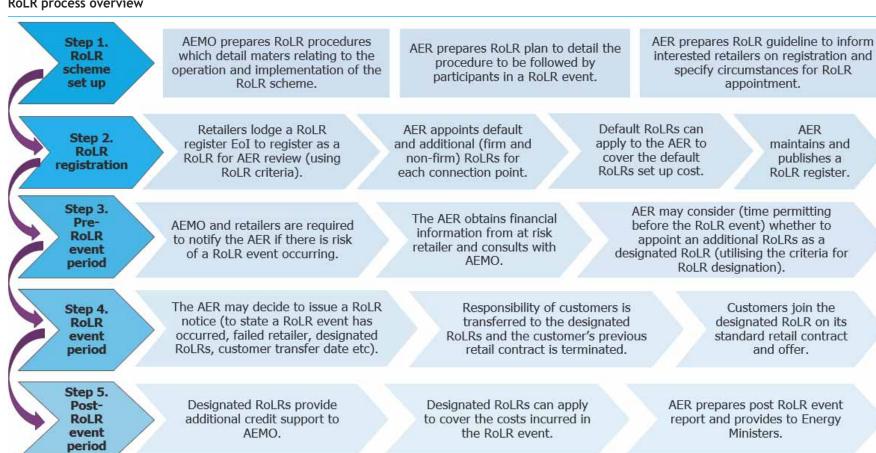
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## **RoLR** process overview



Step 1. RoLR scheme set up			
Current arrangements		Proposed arrangements	
<ul> <li>RoLR Procedures are procedures published by AEMO that deal with any matters relating to the operation or implementation of the RoLR scheme.</li> <li>This includes, identifying the roles and responsibilities of various parties if a RoLR event were to occur that impacted on AEMO's Market Settlement and Transfer Solution (MSATS) or on business-to-business communications.</li> </ul>		AEMO would be expected to carry out a general update to RoLR procedures after the RoLR review recommendations are implemented.	
<ul> <li>The RoLR scheme includes requirements for the AER to develop, make and maintain RoLR plans that are published on the AER's website.</li> <li>The AER's RoLR plan details the procedures to be followed by the participants for a RoLR event, including direct communication with customers of a failed retailer. It also includes regular exercises to be carried out by the participants in the plan.</li> </ul>	RoLR plan	<ul> <li>Address two minor issues, raised by the AER, through changes to section 163 of the NERL, a change from "must" to "may" and inclusion of "external".</li> <li>This would see section 163 of the NERL as - Without limitation, a RoLR plan must may— (a) provide that exercises are to be held at such times as the AER considers appropriate and that a report on the conduct of each external exercise be published on the AER's website;</li> </ul>	
The ΔER must make and maintain ΔER Rol R Guidelines which		The RoLR guidelines would be updated by the AER after the RoLR review	

RoLR guidelines

recommendations are implemented.

EoIs.

This would include in relation to guidance on additional information to be included for market contracts and offers to be included in RoLR register

Source: AEMC

The AER must make and maintain AER RoLR Guidelines which must specify the circumstances in designating a RoLR.

It may also specify information to be included in a RoLR register Expression of Interest (EoI), RoLR cost recovery scheme and

provide for any other RoLR matter.

#### Step 2. RoLR registration

# Current arrangements

- The RoLR register EoI contains information to enable the AER to take the RoLR criteria into consideration to approve RoLR registration.
- It may contain proposals as to the number and classes of customers the retailer will accept if it were to be appointed a designated RoLR in respect of a RoLR event.
- The AER must appoint and register a default RoLR for each connection point (electricity).
- If a RoLR event occurs the default RoLR is taken to be appointed as the designated RoLR in respect of that event unless the AER provide notice that another registered RoLR is to be appointed the designated RoLR. The alternative RoLRs to the default RoLR are the additional RoLRs.
- A RoLR cost recovery scheme is approved by the AER and designed to recover the costs incurred by the RoLR in relation to the RoLR scheme.
- This includes in the case of a default RoLR only, costs incurred in preparing for RoLR events (For example this may be costs incurred to set up administrative processes, update IT systems or to train staff.)
- The RoLR register must include particulars of each RoLR retailer, including whether a retailer is registered as a default RoLR (and if so, the connection points or distribution systems it is a default RoLR for) or an additional RoLR, and what conditions, if any, apply.
- The register shows whether an additional RoLR is registered with a 'firm' or 'non-firm' offer.

# Proposed arrangements

- RoLR register EoIs amended so that retailers have the option of including that customers transferred through the scheme would be placed on a market retail contract.
- Prices, terms and conditions of the market offer would be included in the RoLR register EoI for the AER's approval.
- Default RoLRs would have the option of submitting a market retail contract to be used for RoLR customers, for consideration by the AER in addition to its existing standard retail contract.
- The default RoLR would have the opportunity to provide an update to its RoLR market retail contract at three month intervals (or any other time). Additional RoLRs would similarly be allowed to submit market retail contracts for AER's approval.

Default RoLR cost recovery

RoLR

EoI

register

Default &

additional

**RoLRs** 

No changes proposed (Changes are proposed for RoLR cost recovery post RoLR events).

Register of RoLRs

This may be updated to reflect whether the default or additional RoLR has indicated whether it has provided a market retail contract for consideration in a RoLR event.

Step 3. Pre-RoLR event period

# **Current arrangements**

- AEMO must without delay notify the AER of any event, circumstance or matter of which AEMO is aware and which it has reason to believe might give rise to some risk of, a RoLR event.
- Similarly, retailers are required to notify AEMO and the AER under similar circumstances.
- After the AER has been notified above they have the power to issue a RoLR regulatory information notice to request financial information from retailers at risk.
- This may include details of any parent company guarantees, cash flows, amounts owing to distributors or the most recent financial statements.
- The AER can then, if time permits, start inquiring with registered RoLRs whether they would want to be appointed designated RoLR.
- The AER when determining a designated RoLR must consider the criteria for RoLR designation.
- If the AER does not have enough time pre RoLR event to consider RoLR designation this role will be filled by the default RoLR.

# Proposed arrangements

No change proposed.

requirements

AER's powers

No change proposed.

# RoLR designation

- Delay in RoLR designation through amending the NERL to increase the time allowed for the AER to advise AEMO of the designated ROLR(s), up to 24 hours after the RoLR event.
- This would see the creation of a new notice, the RoLR designation notice.
   If the AER decides it may publish this notice separately, up to 24 hours later, than the RoLR event notice.
- This would also require a rule change to allow AEMO to retrospectively allocate wholesale pool costs to the designated RoLR, if the 24 hour delay is used.

#### Step 4. RoLR event period

# Current arrangements

- The AER may decide to issue a RoLR notice on the occurrence of a RoLR event. A RoLR notice includes; that a RoLR event has occurred, specifies the failed retailer and the registered RoLR(s) appointed by the notice as designated RoLRs, the transfer date and any other information the AER considers necessary.
- If the AER does not issue it on the occurrence of the event the AER must decide whether or not to issue a notice as soon as practicable after the RoLR event.
- Each person who was a customer of a failed retailer immediately before the transfer date ceases to be a customer of the failed retailer on that date (contract is terminated) and becomes, a customer of the relevant designated RoLR immediately.
- If a large customer has notified AEMO before the transfer date as to who its retailer will be in a RoLR event, AEMO will transfer that customer to the nominated retailer.
- The retail arrangement between the designated RoLR and the small customer with effect on and from the transfer date, is the RoLR deemed small customer retail arrangements.
- The terms and conditions of which are same as the designated RoLR's standard retail contract. The prices applicable are the designated RoLR's standing offer prices, with any variations in accordance with the applicable RoLR cost recovery scheme.

# Proposed arrangements

- There will be no change to the AER's ability to decide to issue a RoLR notice or not (This is a change from the proposed position in the consultation paper).
- Though, information requirements in the RoLR notice will change as the AER
  will now be able to separate the RoLR notice from the RoLR designation notice
  if it decides to do so. It may decide to publish both concurrently in the same
  notice.

Customer

transfer

RoLR notice

No changes proposed.

Customer contract

- RoLR's will now be able to propose to place customers on to market retail contracts and provide market offer prices to RoLR customers.
- If the AER considers a market offer acceptable for the RoLR event it will allow the RoLR to transfer customers on to the proposed market retail contract.

#### Step 5. Post-RoLR event period

Current	arrang	ements
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- AEMO can change a participant's prudential settings at any time with one business day's notice. Any changes can require the participant to increase its level of credit support.
- A failure by the retailer to provide this increased credit support by the relevant time constitutes a default event (and lead to RoLR event).
- •For the costs incurred in participating in a RoLR event RoLRs can apply to the AER for cost recovery. The designated RoLR does not take on any of the liabilities of the failed retailer.
- •On receipt of an application the AER must determine a "RoLR cost recovery scheme". In determining this, the AER is guided by a set of principles (see definitions) including that the RoLR itself bear some of the cost.
- Costs may be recovered from DNSPs or in combination with a upfront fee or tariff variation by the RoLR to its own customers(either all or a subset of).
- The AER must prepare, in consultation with AEMO, a report for the MCE on a RoLR event and provide it to the MCE within 80 business days of the transfer date or such later time as the MCE agrees.
- •The report must address the facts, circumstances of the event and actions of the parties involved. It must also include any information requested by the MCE.

Credit support

RoLR (event) cost recovery scheme

# Proposed arrangements

- Amend the NER to insert a one-week 'period of grace' in relation to credit support requirements following a RoLR event.
- Following which the required credit support would be ramped up in increments over a period of four weeks until it reaches the level that fully reflects the additional load of the customers from the RoLR event.
- Make changes to the NERL to provide increased certainty that a RoLR can quickly recover its
  efficient costs, including:
- Remove the requirement that, when making its cost recovery decision, the AER be guided by the principle that the registered RoLR will itself bear some of the costs in proportion to its customer base.
- Further clarify the types of costs that may be recovered by specifying, without limitation, the types of costs that the RoLR has the right to recover in relation to a RoLR event.
- Clarify that the full recovery of RoLR costs should be undertaken through distributor payment determinations.
- Specify a three month period for cost recovery applications and allow flexibility for elements to be fast tracked and delayed for relevant circumstances or requests.
- Introduce an additional cost recovery principle, the AER must be guided by the principle that
  costs not prudently incurred by the designated RoLR in meeting its obligations should not be
  recoverable.
- Specify that a RoLR may include as part of a cost recovery scheme application an undertaking that it would not seek to recover the full amount of costs.

RoLR event report

No change proposed.