

19 December 2012

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

By email: aemc@aemc.gov.au

Dear Sir/Madam

RE: NEM financial market resilience Options Paper

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments on the *NEM financial market resilience Options Paper* (the Options Paper).

The ERAA is the peak body representing the core of Australia's energy retail organisations. Membership is comprised of businesses operating predominantly in the electricity and gas markets in every State and Territory throughout Australia. These businesses collectively provide electricity to over 98% of customers in the National Electricity Market (NEM) and are the first point of contact for end use customers of both electricity and gas.

The ERAA supports the Australian Energy Market Commission's (AEMC) view that the financial relationships and markets that underpin the efficient operation of the NEM are generally robust. The ERAA also agrees that the Retailer of Last Resort (ROLR) arrangements could potentially benefit from some amendment. However the ERAA believes the AEMC could more clearly define the risks under the current ROLR framework for example, cost recovery, retail price regulation or credit support requirements that this review is seeking to address, as a clear objective is not included in the Options Paper. This would assist the AEMC to measure the success of any proposed solutions against their objectives.

The ERAA believes this review could potentially benefit from a narrowed focus on the ROLR. Ensuring the ROLR(s) is protected so they are able to handle the additional responsibilities required of them is essential in preventing financial contagion. If the arrangements are effective, financial contagion will be prevented and the risks to networks and generators will be mitigated. This clear statement of the problem will allow analysis of scenarios where the ROLR(s) is asked to assume responsibility for the failed retailer's customers and understand the key risks that the ROLR(s) will face.

It is important to understand that the ROLR(s) will take on much broader responsibilities relating to the failed retailer's customers than just additional credit support payments. The ERAA understands these include:

- the billing function;
- outstanding ombudsman cases;
- debt collection activities; and
- compliance obligations, in particular performance reporting obligations and green scheme obligations. The ERAA's understanding of ROLR arrangements is that the ROLR(s) does not receive

respite from these obligations just because it is acting as a ROLR(s) and regulators would expect continued compliance with these obligations for the failed retailer's customers.

The scale of the responsibilities that the ROLR(s) is being asked to assume and whether it is capable of taking on these responsibilities will determine whether or not the ROLR(s) itself will fail and cause financial contagion. By way of example, there is a very large scale difference between first tier retailers, and even the largest of the second tier retailers. The Australian Energy Regulator (AER) recognised in its statement of approach that asking a second tier retailer to act as ROLR for a failed first tier retailer could impose significant financial and operational strain upon that second tier retailer, risking further retailer failures. The financial and organisational capabilities of the ROLR therefore need to be considered before being appointed as even spreading the burden across a number of the second tier retailers may not be sufficient to prevent financial contagion. Similarly, requiring one or two of the first tier retailers to act as ROLR(s) for a failed first tier retailer may cause significant financial and operational strain for those first tier retailers.

In the ERAA's view, the scale involved in the failure of a large retailer means that the only viable solution to avoiding financial contagion is for an independent third party to provide public backing for the ROLR(s). The industry would welcome the opportunity to workshop various options that incorporate Government support. The ERAA would also be open to exploring the options available to the AEMC under Australian insolvency laws.

Should you wish to discuss the details of this submission further, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely



Cameron O'Reilly
Chief Executive Officer
Energy Retailers Association of Australia