

2 October 2014

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

Lodged electronically: [www.aemc.gov.au](http://www.aemc.gov.au)

Dear Mr Pierce,

**RE: NEM financial market resilience – Second Interim Report (EMO0024)**

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments in response to the Australian Energy Market Commission's (AEMC) NEM financial market resilience – Second Interim Report (**the Report**). This input compliments the ERAA's previous submission to the NEM Financial Market Resilience Options Paper and NEM Financial Market Resilience Stage Two Options Paper.

The ERAA represents the organisations providing electricity and gas to almost 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within 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 AEMC's decision not to pursue the initial reforms that were proposed for over-the-counter (OTC) electricity derivatives. This market is already highly regulated and market participants currently utilise sophisticated portfolio strategies to manage exposure within this market. We also support the decision to not pursue unnecessary regulatory interventions outlined in the NEM Financial Market Resilience Stage Two Options Paper, as the ERAA advocates that market participants are optimally placed to manage exposure to financial risk from operating in the NEM.

**Amendments to the ROLR scheme**

The ERAA notes the amendments to the ROLR scheme have been proposed to enable the scheme to operate in a broader set of circumstances without exacerbating the risk to the financial stability of the NEM<sup>1</sup>.

The ERAA supports a number of the AEMC's draft recommendations to amend the ROLR scheme. In particular the ERAA endorses the deferral of additional credit support requirements that are to be provided by the ROLR. The provision to allow for a gradual phase in of credit support over a four week period, in addition to allowing for quicker recovery of reasonable costs, will assist in managing a ROLR's exposure to potential financial risk.

The ERAA, however, does not support the exclusion of customers above 10GWh from the ROLR customers. This will create unnecessary administrative burden and costs to both customers and retailers for what is deemed to be of limited benefit. The negotiation process

<sup>1</sup> AEMC NEM financial market resilience second interim report, p.13



The collective voice of  
electricity and gas retailers

for large customer's energy contracts is a complex and time consuming process and generally involves several months of protracted negotiations. Adding a further requirement into the procurement process for these customers to procure a back-up retailer, in addition to a primary retailer, will introduce significant complexity to the negotiation process.

The recommendation also introduces both complexity and additional transaction costs for retailers. If the exclusion is implemented retailers will now be required to negotiate contract terms as either a primary and/or secondary retailer. The ERAA questions the rationale behind this approach. As secondary retailers will only be activated in the highly unlikely event of the failure of the primary retailer, secondary retailer contracts terms will be highly conditional<sup>2</sup>. The ERAA would contend that this would simply add extensive complexity in negotiating commercial terms as it is unlikely that these terms may be acceptable to large customers. The ERAA is also unclear as to the potential impact on competition as retailers elect not to participate in this complex tender process.

### Generation assets

The ERAA supports in principle, amending the National Electricity Rules to enable generation assets to continue to be operated even when a retailer is suspended. The sudden withdrawal of generation capacity in the market, particularly on a high demand day, may cause widespread business and community impacts, if these customers are asked to load shed as a result of the generation withdrawal. The ERAA would assume that this would not be in the interest of consumers nor the multiplier effects that this might have on economic conditions.

### Managing a large participant failure

The ERAA does not support the establishment of a NEM Resilience Council (the Council) as outlined in the Report. The ERAA is concerned that the Council will simply duplicate established and existing communication mechanisms that currently exist in today's market to manage such a crisis in the NEM. The ERAA's view is that rather than establish the Council, existing mechanisms could be reviewed and enhanced to ensure that there is interim government support available. This would help alleviate concerns as to the potential risk that the failure of a retailer, may create market contagion impacting other market participants.

### Stability arrangements

The Report discusses that the ROLR Scheme may not be effective in the event of the failure of a systemically important market participant. The Report proposes stability arrangements in the form of special external administration or management<sup>3</sup>. The Report however does not provide any substantive details as to the design of these arrangements. The ERAA cannot comment on these arrangements until further analysis is provided, and in particular as to how the changes proposed will lower the impact of a ROLR event. Irrespective the ERAA would not support new arrangement's being introduced if the costs of design and implementation far outweighs any perceived benefit that will be received.

Should you wish to discuss the details of this submission, 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  
CEO

Energy Retailers Association of Australia

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<sup>2</sup> The uncertainty of contract commencement date will be reflected in greater wholesale risk as creative call options (as example) would need to be entered into to offset the potential load.

<sup>3</sup> AEMC NEM financial market resilience second interim report, p.19