

17 November 2020

Ms Merryn York
Acting Chair
Australian Energy Market Commission
Level 6, 201 Elizabeth Street,
Sydney NSW 2000

AEMC Reference - RPR0015

Submitted online: www.aemc.gov.au/contact-us/lodge-submission

Dear Ms. York

AEMC Review of Retailer of Last Resort Scheme Consultation

Thank you for the opportunity to provide a submission in response to the Australian Energy Market Commission's (AEMC) consultation paper covering the Review of Retailer of Last Resort Scheme (the Consultation Paper).

Momentum Energy Pty Ltd (Momentum) is an energy retailer owned and operated within Australia. Momentum is owned by Hydro Tasmania; Australia's largest producer of renewable energy. We pride ourselves on providing competitive pricing, innovation and outstanding customer service in Victoria, New South Wales, South Australia, Queensland the ACT and on the Bass Strait Islands. We offer competitive rates to both residential and business customers, a range of innovative energy products and services including the retail of natural gas in Victoria.

Responses to the Questions raised in the Consultation Paper

QUESTION 1: RETAIL CONTRACTS FOR RETAILER OF LAST RESORT (RoLR) CUSTOMERS

- (a) Do you agree that removing the requirement for RoLR customers to be placed on standard retail contracts would improve RoLR scheme customer outcomes?
- (b) Are there any consequential changes to the RoLR scheme that should be made if this change is made?

The key priority once a RoLR event has been triggered is to achieve a smooth, prompt and efficient transition of the failed retailer's customers to the designated or default RoLR. This ensures that these customers continue to receive timely billing, concessions, life support protections and have access to an agency for any existing or proposed network service orders.

The proposed option to place customers of a failed retailer onto an Australian Energy Regulator (AER) pre-approved market offer, rather than the standard contract, is not supported due to the following issues:

- All retailers' standing prices are now capped via the AER's Default Market Offer (DMO) price which has removed the previous variance in retailers' standing offer prices and also reduced the level of these prices. Hence any price differences between the standing offer and the pre-approved market offer are likely to be marginal.
- A retailer's market offer would be underwritten by market offer terms and conditions that may not be consistent with standing offer terms and may deliver a lower level of customer protection.
- Under the National Energy Retail Law (NERL) Section 38(b) a retailer must receive Explicit Informed Consent (EIC) from a customer entering into a market retail contract. During a RoLR event customers would be allocated by the AER to these market contracts without EIC, which is in breach of the NERL and the market contract terms. Furthermore the EIC would not be available for verification if called upon during any current or future dispute resolution.
- It is likely that AER approved market offers submitted by retailers, under this scenario, would differ and if multiple retailers were assigned as designated RoLRs it is possible that customers, in the same area, could be allocated to different market offers and prices which customers may rightly argue is unfair.
- The Consultation Paper raises market share competition concerns, under the situation whereby a number of small retailers failed and their customers were transferred to standing contracts, to one of the default "Big 3" retailers. The Consultation Paper raised concerns that these customers may remain stranded on higher priced standing prices for some time and competitive market shares will be diminished. Our view is that this is not a long term issue as most of these customers have previously shown a propensity to participate in the market accepting offers from second or third tier retailers. If such a RoLR event occurred these customers would readily seek and accept alternative offers from other retailers as they have done in the past.
- The introduction of the DMO has reduced the price difference between most market offers and standing offers hence minimising affordability concerns for customers forced onto a failed retailer's standing contracts. Moreover they are free to accept alternative market offers from the RoLR or other retailers and these offers will also be compared to the DMO reference price ensuring customers are better informed during their decision making process.

Most RoLR events in the past have impacted only a small number of customers but the impact to the affected RoLR is significant as it causes much greater business disruption than normal organic customer growth or a trade sale acquisition of customers. This is largely due to the very short unplanned timeframe in which the RoLR has to ensure it can adequately manage the new customers including:

- Sourcing and uploading customer details into billing systems;
- Organising wholesale energy coverage;
- Developing and implementing suitable customer communications; and
- Managing increased call centre demand.

Therefore the importance of maintaining a simple uniform approach to how RoLR customers are managed and the products they are initially offered is vitally important to a successful outcome for all of the market.

QUESTION 2: ROLR COST RECOVERY ARRANGEMENTS

- (a) Do you agree that the proposed changes would improve certainty for retailers around RoLR cost recovery arrangements?
- (b) Do you agree that increased certainty over cost recovery would provide an incentive for an increased number of retailers to volunteer to become RoLRs?

Momentum agrees that more certainty on RoLR cost recovery rules and principles would improve certainty for retailers and it could also improve the uptake of voluntary retailers seeking to be designated RoLRs.

Providing specific clarity in the cost recovery rules of the types of costs a RoLR can recover would be appropriate as it would assist RoLRs to manage the risks of accepting RoLR responsibilities. The ongoing retention of RoLR customers is uncertain. It is our understanding that RoLR customers readily switch retailers from the appointed RoLR shortly after the RoLR event. Therefore the ability to recover any RoLR costs via retailer margins is limited. All types of increased costs to the RoLR, as specified in the Consultation Paper, should be allowed for and specified in the cost recovery rules.

The Consultation Paper proposes that RoLRs should have up to three months to submit their claims for additional RoLR costs. Momentum believes that this should be amended to six months as retailer resources in the first 3 months, after a RoLR event, can be strained and these resources should be directed at customer management initially with the ability to determine cost impacts in the following 3 months.

Momentum agrees with the proposal to remove the current alternative mechanisms for RoLR cost recovery in the NERL and ensure that all costs are recovered via distributor payment determinations. The current arrangement whereby the AER can determine if cost recovery is allocated to RoLR customers, for small retailer failures, in the form of upfront fees or alternatively, for large retailer failures, recovered via distributor payment determinations creates uncertainty for both RoLR customers and the RoLR. Spreading these costs across the wider distributor areas will result in minimal cost increases to other customers and ensure that the RoLR customers are not unduly penalised for participating in the market. An effective competitive market delivers ongoing benefits for all customers.

QUESTION 3: FRAMEWORK FOR ROLR DESIGNATION

- (a) Do you agree that it would be beneficial to delay RoLR designation?
- (b) If so, in implementing the recommendation to delay designation of the RoLR, what is the best approach and timing of the AER's notices to communicate the RoLR event and designated RoLR to market participants and consumers?

Subject to the proposed new RoLR cost recovery rules Momentum is supportive of a delay in the RoLR designation of say 24 – 48 hours in order to facilitate more RoLRs being appointed by the AER. This would also assist the market to better support the failure of a larger second or third tier retailer. The appointment of the RoLRs should not be extended beyond this timeframe otherwise customer service/confusion will be increased and there could be a resultant increased RoLR(s) unhedged energy cost recovery impact to the rest of the market.

If customers are to be allocated to various designated RoLRs then this further supports a consistent approach to customer contracting whereby all customers should be transferred onto standing contracts as they will all be similarly priced under DMO arrangements. Customers of a failed retailer will demand confidence that they are all treated (price and terms) in a similar manner.

Ideally the notice of a RoLR event to customers should include the name of the designated RoLR and the customer contract implications. However if this is not possible due to the delay in appointing RoLRs then this could follow shortly afterwards.

QUESTION 4: AUSTRALIAN ENERGY MARKET OPERATOR (AEMO) CREDIT SUPPORT REQUIREMENTS

- (a) Do you agree that the current AEMO credit support requirements heighten the risk of financial contagion occurring through operation of the RoLR scheme?
- (b) Do you agree that AEMO's credit support requirements should be, as proposed, amended through a rule change request to address this issue?

Momentum supports the proposed changes to the credit support requirements (via a rule change request) that would see the development, by AEMO, of a credit support procedure that would allow the ramping up of the credit requirements over the first four weeks of a RoLR being appointed.

This change will result in AEMO decreasing the amount of collateral held and subsequently increasing the risk that failure of the RoLR could result in generators being short paid. We believe this risk is minimal.

QUESTION 5: ROLR PLAN REQUIREMENTS

- (a) Do stakeholders agree that this minor amendment would provide the AER with appropriate flexibility?

The proposal to amend section 163 of the NERL by changing “must” to “may” and to include “external” to avoid the need for the AER to publish details of all RoLR exercises both internal and external is supported by Momentum. There is no value in publishing the details of all RoLR exercises as some of these exercises relate to embedded network retailers which have no impact on AEMO or distributors.

QUESTION 6: APPOINTMENT OF ADMINISTRATOR AS A TRIGGER FOR A ROLR EVENT

- (a) Is the appointment of an administrator an appropriate trigger for a RoLR event?
- (b) Would the appointment of an administrator be more appropriate to trigger a monitoring process by the AER? If so:
- what type of reporting from the administrator to the AER would be appropriate? and
 - What are some alternative triggers for a RoLR event following the appointment of an administrator?

Momentum agrees with the proposal, outlined in the Consultation Paper, for the RoLR Scheme be amended so that the appointment of an administrator, to a failing retailer, is not the mandatory trigger for a RoLR event. In some cases the retailer may be able to continue to operate by organising alternative capital funding or a full or partial trade sale of its customer base and wholesale hedge book. Once a RoLR event is triggered these options are lost and the market is left with no alternative but to manage this disruptive market event.

RoLR events present negative outcomes for the industry and create a loss of confidence in the market for consumers. However, the amended provisions must ensure the appointed administrator, suitably convinces and gains approval from the AER, that the business can still trade and that it has the ability to continue trading to minimise the financial risk to the rest of the market.

QUESTION 7: ROLR ARRANGEMENTS FOR EMBEDDED NETWORKS

- (a) Should embedded networks have some form of RoLR arrangements?
- (b) If yes, what solution is appropriate to provide embedded network customers with RoLR arrangements?

Momentum has considered the RoLR options for embedded networks outlined in the Consultation Paper and we believe that the simplest and least administratively burdensome solution should be selected.

We do not believe that the option to impose the RoLR responsibility onto the retailers that are the suppliers to the embedded network gate meter is appropriate. These retailers may not have the ability to suitably manage small customers under a RoLR event. They may only be retailers to large customers and/or have limited billing system capability.

We support the appointment of the default RoLR for the network as the embedded network customer RoLR to avoid any complications and to provide these customers with equality in regards to the supply of an essential service for all customers.

QUESTION 8: OTHER ISSUES

- (a) Would it be beneficial to include elements of the RoLR scheme in the NERR?
- (b) What other issues are there with the RoLR scheme and how could they be addressed?
- (c) Are there other changes, outside of those included in this review, that would reduce barriers for retailers to volunteer as RoLRs?

(d) Are there other changes, outside of those included in this review, that would improve the effectiveness of the RoLR scheme?

While we understand the energy market is rapidly changing we do not believe that RoLR provisions should be subjected to the change mechanisms covered in the rules. Rule changes can be proposed by any person at any time. The responsibilities of a RoLR are significant and impose risks on default and designated retailers. They should not be subjected to regular changes simply based on any person proposing a change. RoLRs need certainty and time to build system and process capability and these investments need to be recovered over many years without unnecessary amendments.

This sort of risk would act as a disincentive for smaller retailers to opt in to designated RoLR arrangements and increases the risk of concentrating the market back towards the big 3 if a RoLR event occurs.

We understand and support the application of these recommended changes to gas RoLR provisions where appropriate.

Should you require any further information with regard to this submission, please don't hesitate to contact me on 0478 401 097 or email randall.brown@momentum.com.au

Yours sincerely

[Signed]

Randall Brown
Regulatory Manager