

21 June 2007

Dr Michael Keating, AC, Chairman
Independent Pricing and Regulatory Tribunal of NSW
PO Box Q290
QVB Post Office
NSW 1230

Dear Dr Keating,

Thank you for the opportunity to comment on IPART's Issues Paper regarding the application for a retail licence by GridX.

The Energy & Water Ombudsman NSW investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

EWON appreciates the thorough exploration in the Issues Paper of the impact that the granting of a retail operating licence to GridX will have on the customers supplied by them. Our comments are confined to those questions in the Issues Paper that fall within the scope of EWON's jurisdiction and experience.

As noted in the Issues Paper, the advent of bundled retailing appears to offer many advantages for electricity consumers who choose to enter into a supply contract with a bundled retailer such as GridX, as well as contributing to a reduction of greenhouse gas emissions. However, EWON agrees that regulation and tailored licence conditions are required to adequately address the possibility of negative events such as business failure, loss of supply or abuse of market power.

For ease of reference we have adopted the same numbering as the Issues Paper.

4. Customer rights issues

1. Should Retailer of Last Resort (RoLR) arrangements be established to protect customers in the event of a bundled supplier business failure? If so, what form should those arrangements take, who should be appointed and for what period?

For customers who occupy premises that are connected to the national electricity transmission and distribution grid in New South Wales, having a RoLR arrangement in place is an important safety net in the event the business failure of their retailer of choice. The ‘ring fencing’ of electricity network and retail businesses in New South Wales over more than a decade means that in the event of a retailer business failure, a New South Wales electricity customer who is not reliant on an ‘islanded’ network will remain connected to the national electricity distribution grid and enjoy uninterrupted supply, but be billed by a new or temporary retailer.

EWON suggests that there is a valid argument to be made that customers occupying premises within an islanded network that is itself within or adjacent to an existing standard supplier’s distribution network should also be protected by RoLR arrangements. The reasons for this include the nature of domestic electricity supply as an essential service, and the community expectation that electricity supply at the domestic level is a service that should as far as possible be supplied at consistent levels of quality, reliability and availability regardless of which part of the State a customer resides.

There have been some incidents in New South Wales of business failure impacting on customers’ access to energy infrastructure. In 2002-2003, EWON mediated a customer dispute that involved the failure of a sophisticated gas-fired/hot water reticulation air heating system at a large residential development. At the time of construction, the developer of the complex contracted a company to install a computer-monitored apportionment system that was used by the development’s gas retailer to produce bills for individual residents, based on a complicated analysis of water reticulation, gas consumption and unit entitlement.

When the business that installed and maintained the system failed, the residents were left owning a billing system that no longer operated, and which the retailer could not use to bill residents. After some time, the retailer began issuing bills to the owners corporation based on gas meter readings taken from the three gas meters at the development, which the owners corporation disputed, and this dispute escalated to a near-disconnection of the gas supply to a large residential development.

The dispute was eventually resolved between the parties, but the billing apportionment technology had to be abandoned in favour of bills based on the three main gas meters at the site. Had this been an islanded network and the bundled retailer responsible for the supply of gas supply and operation of the heating system had experienced business failure, residents could have faced an extended period of disconnection with no access to the development's heating system. Had this occurred in the middle of winter, given the advanced age of many of the residents, the consequences could have been quite serious.

EWON suggests there may also be some parallels between the proposed GridX islanded electricity networks and the Nowra reticulated natural gas network operated by ActewAGL. This part of ActewAGL's network sits outside the contestable NSW/ACT gas market, and none of the individual metering installations carry a Distribution Point Identifier number. Customers supplied gas in this network cannot choose to contract with a gas retailer other than their standard supplier, ActewAGL. In the event of the business failure of ActewAGL, customers in this islanded network would presumably continue to remain connected to a supply of gas, but be billed by a RoLR.

EWON acknowledges the complex issues posed by the questions of who should be responsible for stepping in as the Supplier of Last Resort in the event of a business failure and what form such arrangements should take. We have not commented on these issues as that they are beyond EWON's jurisdiction.

2. Should customers supplied by islanded networks be protected (for example, in the form of customer funded insurance if available at a reasonable commercial cost) either fully or partially against the costs of connection to the national grid in the case of a worst-case RoLR event?

While EWON agrees that the issue of 'buyer beware' is relevant in this discussion, at the time they commence occupying premises most customers – especially tenants – would not give consideration to the possibility of the failure of their bundled retailer's business and what affect this might have on their access to an uninterrupted electricity supply, unless this is specifically pointed out to them. For this reason, EWON supports a requirement for any new customer of an islanded retailer to be fully informed before they commence accepting supply, of any RoLR arrangements in the event of business or generation/distribution infrastructure failure.

With regard to a customer funded insurance levy, EWON is concerned that customers of a bundled retailer should not be burdened with the cost of contributing to an insurance policy to protect against the possibility of retailer business failure. Such an additional cost may result in such customers paying more for their electricity supply than the regulated standard tariffs of a standard supplier despite the proposed additional licence requirement for retail prices for islanded retailer customers to be capped.

EWON suggests a model of last resort supply whereby if continuation of supply via the failed business' generation and distribution facilities is not possible, a RoLR steps in to arrange either connection to temporary diesel generation, or connection to the nearest existing distribution network (which may or may not require network augmentation). The RoLR is then able to recover the reasonable costs of this temporary or new connection work from the owners of the properties so connected. Such an arrangement would, in addition to regulatory amendment, require property owners to indicate their understanding of, and agreement to, such recovery rights before they purchase a property that is supplied by a bundled retailer.

This model acknowledges the widely accepted concept of 'buyer beware'; ensures that customers are not unnecessarily burdened with funding an insurance policy to cover the rectification of an event that may not occur; and is consistent with IPART's position on customer contributions to the cost of new connections.

3. If so, should industrial and commercial customers be treated differently to small retail customers in these circumstances?

Industrial and commercial customers (whether they are small retail or not) carry a higher burden of responsibility than residential customers to ensure that they take reasonable steps to mitigate against business loss resulting from variation or interruption to their electricity supply. These steps can include insurance policies that specifically cover losses arising from such events, investing in emergency back up power to protect and allow the safe shutdown of equipment, and ensuring their electricity installation is designed to cope with the type of equipment in use at the supply premises, and is well-maintained by a licensed electrical contractor.

In the event of a worst case RoLR event, EWON does not consider that such customers should be treated differently, unless the higher electricity usage needs of an industrial or commercial customer meant that connection of supply to the national grid (and possible augmentation of the network) of residential customers might be delayed. In such circumstances, the electricity supply needs of

residential customers should be given priority to ensure that restoration of supply occurs as soon as possible.

4.2.3 Access to Energy Ombudsman and internal dispute resolution

EWON agrees that it would be necessary to amend the *Electricity Supply (General) Regulation 2001* to allow customers of islanded networks to bring complaints about network issues to EWON. This would grant such customers equivalent rights to those enjoyed by customers of electricity networks that form part of the national grid. Given that customers of an islanded network will not be able to avail themselves of the competitive retail market and will thus be subject to monopoly provision, access to an independent energy ombudsman is crucial.

5. Monopoly supply issues

6. Is the proposed licence condition of a price cap suitable?

EWON agrees that a licence condition requiring GridX not to exceed the bundled tariff charged by the nearest standard retail supplier unless otherwise approved by the Tribunal would be reasonable and in the interests of protecting GridX customers from any possibility of abuse of monopoly power.

6. Draft additional licence conditions

7. Are proposed licence conditions outlined in Appendix A of this report suitable?

EWON agrees that customers of islanded networks should not be subject to standards of supply or metering that fall below those which other licensed electricity network service providers are required to comply with. This will be especially important as advanced metering is rolled out across the national grid over the next several years.

The proposed requirement for islanded networks to prepare and maintain a supply network breakdown plan, publish this plan and lodge a copy with the Director-General of the Department of Water and Energy is reasonable and consistent with the requirements imposed on other network service provider licence holders. For this reason, EWON supports the proposed licence conditions outlined in Appendix A of the Issues Paper.

If you would like to discuss this submission, please contact me or Damien Sams,
Investigations Policy Officer, on 8218 5250.

Yours sincerely



Clare Petre
Energy & Water Ombudsman NSW