

21 September 2007

Mr Michael Keating  
Chairman  
Independent Pricing and Regulatory Tribunal  
PO Box Q290  
QVB Post Office NSW 1230

Dear Mr Keating

Thank you for the opportunity to comment on the *Review of retailer of last resort supply fee for small retail customers Electricity – Issues Paper August 2007*.

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

EWON believes that it is timely for a review of the RoLR fee for small retail customers. We also suggest it would be an appropriate time to review the retailer of last resort arrangements as a whole, given that New South Wales has had the experience of a RoLR event during 2007.

*Supply fee for small customers*

EWON acknowledges that retailers of last resort will incur costs in absorbing customers displaced following a RoLR event. (We assume that there may also be some potential benefits to retailers of last resort in acquiring customers without the usual marketing costs.)

However, we believe that small retail customers, whether residential or small business, should not be penalised by way of a fee for the business failure or withdrawal from the market of their retailer of choice.

Customers transferred to a RoLR in such events are already inconvenienced by receiving an out-of-schedule, estimated final bill from the failed/withdrawn retailer. In some cases the customers may have deliberately chosen to leave the RoLR, only to find themselves transferred back to their former retailer which is the RoLR for their area. Customers may pay more for their energy with the RoLR than under their market contract with the failed/withdrawn retailer. For customers to be charged a fee in these circumstances would appear to be 'adding insult to injury'.

A charge to customers by the RoLR could result in complaints, both to the RoLR and possibly to EWON, with the costs of complaints outweighing any gain of the administrative fee.

*Recovering RoLR costs*

Where a retailer collapses, as anticipated by the RoLR provisions, we suggest that consideration might be given to recovery of the costs of customer transfers through an industry-wide insurance scheme or other type of fund. This would allow a spread of costs rather than the current regulatory arrangement that potentially penalises a particular group of customers by requiring them to pay a fee because their current retailer has failed/withdrawn from the market.

In the event of a retailer voluntarily choosing to withdraw from the market, IPART might consider that a condition of withdrawal should be for the retailer to pay all or part of the relevant RoLR costs.

EWON suggests that until the end of the current endorsement period (September 2009), it would be appropriate that retailers of last resort absorb the costs of accepting customers 'orphaned' as a result of their retailer of choice voluntarily withdrawing from the market. We note that the Electricity Tariff Equalisation Fund (ETEF) remains at 60% until September 2009, thus providing a level of protection to the retailers of last resort against volatility in wholesale electricity prices.

*Broader review of RoLR arrangements*

EWON suggests that the recent RoLR experience in NSW should result in an overall review of retailer of last resort arrangements. This is particularly important to ensure that the RoLR provisions fully encompass withdrawal events as well as retail failure, and to ensure that any other issues are fully canvassed.

If you would like to discuss this matter further, please contact me on 82185250.

Yours sincerely



**Clare Petre**  
Energy & Water Ombudsman NSW