

15 June 2010

Lara Morgan
Assistant Manager, Retail Policy Team, Energy and Environment
Department of Resources Energy and Tourism
GPO Box 1564
Canberra ACT 2061
lara.morgan@ret.gov.au

Dear Lara

Retailer of Last Resort Scheme Consultation Draft: June 2010

Thankyou for your email dated Tuesday 8 June 2010. As EWON is unable to attend the workshop in Melbourne on Tuesday 15 June 2010, we appreciate the opportunity to provide you with some brief written comments on the Retailer of Last Resort Scheme Consultation Draft.

Overall we welcome the re-drafting of these provisions, and consider they now provide a more comprehensive framework for this area of the law, particularly regarding the procedures following the failure of a gas retailer.

We have included some specific comments in the table below. For ease of reference, we have used the abbreviation 'NECF 2' to refer to the 2nd *Exposure Draft of the National Energy Customer Framework*.

Section	Comment
601	EWON queries the removal of (2) from the version in NECF 2, with its specific reference to the intention of maintaining ' <i>the continuity of the supply of energy to customers</i> '. We submit that the stated objective of maintaining ' <i>the continuity of supply of energy to customers</i> ' is an important statement to retain.
603	EWON queries why the reference to 'particular areas' has been removed from the NECF 2 draft, particularly as it was only presented as one of several alternative options. In the recent RoLR event with Jackgreen in NSW, the RoLR to which affected customers were transferred was the standard retail supplier for their geographic area. With price regulation continuing in place until at least 2013 in NSW, the concept of 'area' for the standard retail supplier is likely to continue after the adoption of the NECF. (continued)

	<p>We seek clarification as to how a RoLR is to be appointed in NSW if another retailer fails before 2013, if one of the possible criteria for registering the RoLR is not 'area'.</p>
Section	Comment
618	<p>EWON welcomes the additional sub-sections ensuring ongoing dispute resolution services for customers of the failed retailer via the insolvency official.</p> <p>It is not clear however how this impacts on customers in financial difficulties who owe substantial arrears – possibly, but not necessarily, due to some failure on the part of the retailer such as failure to bill for a long period, or a billing error resulting in a significant undercharge.</p> <p>These customers would normally be entitled to a long term payment plan – eg under Rule 218 in NECF 2 they are entitled to up to 12 months to pay in the event of undercharging. As the involvement of an insolvency official may only be comparatively short term, we are seeking advice regarding the procedure for these customers who would otherwise be entitled to a long term payment plan.</p> <p>EWON's experience in connection with the Jackgreen RoLR has been that customers with outstanding arrears were not offered payment plans. Instead the debts were referred on to a mercantile agent, and these customers were further disadvantaged when those agents charged them a commission of up to 25% of the amount of the debt.</p> <p>EWON welcomes Subsection (4) (b) which provides that the insolvency official is to be '<i>subject to and bound by Part 4</i>'. This is an important provision to enable an ombudsman to assist customers with unresolved issues at the time of the RoLR event.</p> <p>We note that costs for the work of the energy ombudsman schemes in investigating complaints is always charged directly to the retailer, who is a member of the relevant scheme. Is it the intention of this subsection that the insolvency official will be responsible for meeting the costs of the energy ombudsman schemes in resolving complaints against the failed retailer? EWON would support this interpretation, as we believe this would encourage timely resolution of the remaining customer complaints, however we would appreciate further clarity on this matter in s 618.</p>
633	<p>EWON supports the expanded list of information that needs to be provided in RoLR Regulatory Information Notices, to include customers receiving health or social security rebates, and those who have been receiving a credit under a feed-in arrangement.</p>



Section	Comment
Rules 1117	<p>EWON supports the concept of the RoLR communicating directly with the new customers who are transferring to them from the failed retailer, clearly explaining the RoLR event and outlining the options available to them.</p> <p>In the recent Jackgreen ROLR event in NSW the issuing of the final bill from the failed retailer and the first bill from the RoLR (with whom the customer may have had no previous relationship) caused concern and confusion for many customers, particularly as both bills were necessarily based on an estimated read. Some of this may have been avoided by clearer communication of the process.</p>

As we are unable to attend the stakeholder workshop on this draft, can you please advise if the minutes from the workshop, along with any written stakeholder submissions will be made available? To date, NECF materials and written stakeholder submissions have been made available via the MCE website, and this has been an important way for stakeholders to monitor and contribute to the development of the NECF.

If you would like to discuss this matter further, please contact me or Emma Keene, Manager Policy and Projects, on 02 8218 5225.

Yours sincerely

Clare Petre
Energy & Water Ombudsman NSW

Cc Manager, MCE Secretariat
Department of Resources, Energy and Tourism
GPO Box 9839
Canberra ACT 2601
MCEMarketReform@ret.gov.au

Damien Sams
Retail Policy Working Group NSW Representative
Industry & Investment NSW
Damien.Sams@dwe.nsw.gov.au