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ELECTRICITY RETAILERS OF LAST RESORT (LOCAL RETAILER FAILURE)

FINAL DECISION

OCTOBER 2009

An appropriate citation for this paper is:

Essential Services Commission 2009, *Electricity retailers of last resort (local retailer failure): final decision*, October

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1.1 Background

Part 2 division 8 of the *Electricity Industry Act 2000* (Electricity Act) establishes a retailer of last resort scheme (RoLR) for electricity in Victoria. A RoLR scheme is intended to maintain continuity of electricity supply to customers' premises by requiring another retailer to sell electricity to these customers when their existing retailer is unable to do so. The Electricity Act defines what type of retailer failure will trigger the operation of the RoLR scheme, that is, when:

- a retailer's licence to sell electricity is revoked or
- a retailer's right to acquire electricity in the wholesale market is suspended.¹

The Electricity Act also determines the maximum duration of the RoLR's obligation to supply (three months), and confers on the Essential Services Commission (the Commission) broad discretion to develop and implement the remaining features of the RoLR schemes. These features include whether retailers or distributors will be the RoLR and the tariffs, terms and conditions for customers in the event of a retailer failure.

In February 2006, the Commission made its final decision on an electricity and gas RoLR scheme for Victoria.² The key decisions made by the Commission as it applies to the electricity industry are:

- RoLR responsibilities were assigned to the three local retailers, AGL Sales (AGL), Origin Energy (Origin) and TRUenergy.
- in the event of a non-local retailer failure, the customers of the failed non-local retailer will be allocated to the electricity retailer who has the local retailer responsibility for the area where each customer is located and
- in the event of a local retailer failure, customers of the failed local retailer will be allocated to the remaining local retailers on the basis of transmission node identities (TNIs) and market share.

1.2 What are transmission node identities (TNIs)

Transmission Node Identities (TNIs) are used by the Australian Energy Market Operator (AEMO) to facilitate market settlement processes.³

¹ Section 49D(5) of the EI Act.

² Essential Services Commission 2006, *Energy retailer of last resort final decision*, February

TNIs are specific points in the grid where electricity is exchanged between the transmission network and the distribution network.⁴ The consumption data from each TNi represents the aggregate load of all customers connected to that TNi with the net load from each TNi allocated to a local retailer for market settlement purposes.

TNIs in each distribution region are assigned by AEMO to the one local retailer for the purpose of market financial settlement.

1.3 Rationale for allocation of customers on the basis of TNIs and market share

The Commission has previously consulted on this matter. In 2002, the Commission issued a position paper, which proposed two methods of allocating customers of the failed retailer to the remaining retailers were considered:

- TNIs and market share
- Load profile of customers

Of the two methods, the Commission considered that TNIs and market share would provide a more accurate transfer of customers:

*The smallest grouping of...customers that can be accurately transferred are those connected to a transmission node...where half hour metering is maintained and ordinarily used by NEMMCO for market settlement.*⁵

The Commission also proposed an allocation of TNIs from the failed local retailer's areas to the remaining local retailers. This allocation of TNIs took account of the number of TNIs in the area and the load on each TNi.⁶

The Commission confirmed its view on the methodology for allocating the failed local retailer's customers on the basis of TNIs and market share in the 2006 final decision on an energy RoLR scheme.

In August 2009, the Commission published its draft decision on the methodology for allocating TNIs. The draft decision also set out the actual assignment of TNIs to

³ For further description and a list of TNIs in the market see the paper, *National Electricity Market Transmission Node Identities (TNI)*, NEMMCO, January 2009

⁴ The Commission understands that there are some cross-region flows of electricity at certain boundary point between distribution regions that are not designated as TNIs and are, therefore, outside of AEMO's settlement process. These flows are either metered as second tier load and transferred to the neighbouring retailer or are not metered. These arrangements will continue under the local retailer RoLR scheme.

⁵ Essential Services Commission 2002, *Electricity retailer of last resort – further development of the scheme including for local retailer failure: position paper*, February, section 3.3

⁶ *Ibid*, section 3.4

the RoLRs. Submissions from AGL, Jemena Electricity Networks, Origin Energy and United Energy Distribution are taken into account in this final decision.

1.4 Summary of final decision

Overall, stakeholder submissions did not raise substantive issues in relation to the methodology used to allocate TNIs to the RoLRs. Origin Energy⁷ and TRUenergy⁸ considered this decision a reasonable interim solution until the implementation of a national RoLR scheme.

The Commission's final decision is that in the event that one local retailer fails, the customers of the failed local retailer will be assigned to the remaining local retailers on the basis of TNIs. The allocation of TNIs to the remaining local retailers is set out in Tables 3.1, 3.2 and 3.3. The failed retailer's load shared between the two remaining local retailers resulting from this assignment of TNIs broadly preserves the existing market shares of the remaining local retailers as required by the 2006 decision.

1.5 Future review

This paper sets out the methodology for assigning customers to the remaining two local retailers if a local retailer fails.

This methodology is dependent on the number of local retailers, the market shares of these retailers and AEMO retaining its current methodology of "settlement by differencing" at each TNI.

Therefore, if any of these factors change, the assignment of TNIs would need to be reviewed. Given that the Commission's energy retail functions are expected to be transferred to the Australian Energy Regulator by 2011, this review may have to be undertaken by the Australian Energy Regulator, taking into consideration a national RoLR scheme.

The Ministerial Council on Energy is currently consulting on the framework for a national RoLR scheme. TRUenergy nevertheless considered that, if a national RoLR scheme does not eventuate, the Commission should review the methodology for the failed local retailer's customers 24 months from the date of this final decision. The Commission expects that a review the RoLR scheme will be necessary if the national framework is not in place by that time.

⁷ Origin Energy 2009, *Electricity Retailers of Last Resort (Local Retailer Failure) Draft Decision*, September, p. 1.

⁸ TRUenergy 2009, *TRUenergy Comments: ESC Electricity Retailers of Last Resort (Local Retailer Failure) Draft Decision*, September, p. 1.

There are two aspects of customer assignment if a local retailer fails:

- assigning the retailer's first tier customers, that is, those who are supplied by the retailer within its prescribed local area, and
- assigning the retailer's second tier customers, that is, those customers of the retailer outside the area where the retailer is the prescribed local retailer.

The Commission reaffirms that, if a local retailer fails, that local retailer's second tier customers would be allocated to the local retailer (RoLR) for the area where the customers are situated. This is equivalent to the assignment that would occur if a non-local retailer fails.

The assignment detailed below takes into account that any of the three local retailers could be suspended from the market, which would trigger the RoLR scheme.

2.1 The local retailers

Local retailers are electricity retailers, who previously had legislative obligations to supply customers in defined areas, in the event that customers were unable to access supply through the competitive market. These defined areas corresponded to a distribution business region. The prescribed local electricity retailers for Victoria by distribution area are shown in Table 2.1.

The February 2006 decision was that RoLR responsibilities should be assigned to these local retailers.

The *Electricity Industry Act 2000* has subsequently been amended to place the obligation to supply in these circumstances on all retailers. AGL proposed therefore that all retailers should have RoLR responsibilities with the allocation of the failed retailer's customers to be based on each retailer's market share.⁹

The Commission reiterate its view that local retailers are in the best position to provide RoLR services because of their market size, financial position, system capacity and ability to support taking on large numbers of customers at short

⁹ AGL, 2009, *Submission*, September, p. 1.

notice.¹⁰ Therefore, the Commission maintain its decision to place RoLR responsibilities on local retailers.

Table 2.1 **Local retailers**

<i>Local Retailer</i>	<i>Electricity Distribution Region</i>
Origin Energy	CitiPower
	Powercor Australia
AGL Sales	United Energy Distribution
	Jemena Electricity Networks
TRUenergy	SPI Electricity

2.2 The assignment methodology

The following approach is used to develop the allocation by TNI taking account of market shares:

- The wholesale electricity and number of national metering identifiers (NMIs) attributed to each of the local retailers at each TNI in Victoria for 2008 was supplied to the Commission by AEMO.¹¹
- In accordance with the Commission's 2006 decision for a local retailer failure, the market shares of each local retailer were assessed so that the allocation of TNI would approximately preserve overall market shares. The market shares are discussed further in section 2.2.1 below.
- The process excludes TNIs that are assigned to large individual customers, other states (cross border flows) or generators and not to a local retailer.
- The TNIs of the failed retailer were allocated to the two remaining local retailers on the basis of electricity market share. The allocation is therefore designed to preserve approximately the existing retailer market shares for the overall electricity being allocated to the RoLRs, and
- Where there are net credits of wholesale energy for the local retailer at a TNI, these TNIs have been shared between the two RoLRs where possible.¹²

¹⁰ Essential Services Commission 2006, op. cit., p. 16. Also refer to the Commission's 2009 *Gas retailers of last resort for the non-principal transmission system areas final decision*, when the Commission retained the view that local retailers should be the RoLRs (see p. 4).

¹¹ This data is confidential and was supplied by AEMO to the Commission under clause 7.7(a)(8) of the National Electricity Rules.

Origin Energy queried whether other methods could be used to allocate the TNIs, such as the geographic location of customers.¹³

In assigning the TNIs, the Commission's primary consideration is to preserve the integrity of the financial settlement process following a local retailer failure. To this end, the assignment of TNIs detailed in this paper broadly reflects the remaining retailers' market share, which was determined using customer numbers.

The Commission acknowledges that there are other ways to allocate TNIs, such as the geographic location of customers connected to each TNI, including whether they are rural or urban. However, the Commission believes the use of market shares is the best method of ensuring the integrity of the financial settlement process.

2.2.1 Preserving market shares

If one local retailer fails, the assignment of TNIs to the RoLRs is to be based on the electricity market shares of the remaining local retailers. These market shares are derived from the customer numbers as reported in the Commission's Comparative Performance Report for 2007-08;¹⁴ that is, the market shares reflect the number of customers that were supplied with electricity by the retailer in 2007-08.

The market share calculated does not use customer numbers by distribution zones. Instead, the market share is calculated by excluding the failed retailer's customer numbers and proportioning the total customer numbers of the remaining two local retailers.

For example, Table 2.2c shows that, if Origin Energy exits the market, the total customer numbers for AGL and TRUenergy are 1,178,312. As AGL has 618,233 customers, its market share relative to TRUenergy is calculated by taking AGL's customer numbers and dividing it by total customer numbers for both AGL and TRUenergy. This ratio therefore would be used to allocate Origin Energy's customers to AGL and TRUenergy in this scenario.

Tables 2.2a, 2.2b and 2.2c below show the relative electricity market share for the two remaining local retailers when a local retailer exits the market.

¹² Net credit means that net energy at the TNI is returned to the grid due to there being an excess of distributed generation over load.

¹³ Origin Energy 2009, *Electricity retailers of last resort (local retailer failure) draft decision*, September, p. 1.

¹⁴ *Energy Retailers Comparative Performance Report – Customer Service 2007-08*, Essential Services Commission, December 2008, Table 1

Table 2.2a **Market shares of remaining local retailers without AGL**

<i>RoLRs</i>	<i>Customer numbers</i>	<i>Market share</i>
Origin Energy	693,124	55.3%
TRUenergy	560,079	44.7%
Total	1,253,203	100.0%

Source: Essential Services Commission 2008, *Energy Retailers Comparative Performance Report – Customer Service 2007-08*, December, Table 1

Table 2.2b **Market shares of remaining local retailers without TRUenergy**

<i>RoLRs</i>	<i>Customer numbers</i>	<i>Market share</i>
Origin Energy	693,124	52.9%
AGL	618,233	47.1%
Total	1,311,357	100.0%

Source: Essential Services Commission 2008, *Energy Retailers Comparative Performance Report – Customer Service 2007-08*, December, Table 1

Table 2.2c **Market shares of remaining local retailers without Origin Energy**

<i>RoLRs</i>	<i>Customer numbers</i>	<i>Market share</i>
AGL	618,233	52.5%
TRUenergy	560,079	47.5%
Total	1,178,312	100.0%

Source: Essential Services Commission 2008, *Energy Retailers Comparative Performance Report – Customer Service 2007-08*, December, Table 1

This section sets out the detailed assignment of the TNIs, for which the failed retailer had financial responsibility in the wholesale market, to the remaining two local retailers. The failed retailer's load shared between the two remaining local retailers resulting from the assignment of TNIs broadly preserves the existing market shares of the remaining local retailers as required by the 2006 decision.

The share of TNI load sometimes will not exactly equal market share because the electricity loads assigned to TNIs are relatively large. Therefore, changing the allocation of one TNI can cause relatively large quantities of electricity to be reallocated.

Jemena noted there is an additional TNI, VSM6, which was not included in the draft decision.¹⁵ The Commission was subsequently advised by AEMO that another TNI, VSMT, was not listed.

These are new TNIs that currently have no customers or energy recorded against them, but the load from existing TNIs will be shared with these new TNIs. That is, the load from the existing TNI:

- VTTTS will be shared with VSM6, and
- VTT2 will be shared with VSMT.

The Commission has revised Tables 3.1 and 3.2 to reflect the inclusion of the two new TNIs. As the load from existing TNIs will be shared with the new TNIs (and therefore, the load shared will not alter), it is unnecessary to reallocate the remaining TNIs in the draft decision.

3.1 AGL Sales

If AGL was to exit the market, the allocation of its TNIs, and the loads associated with those TNIs, to the remaining local retailers is shown in Table 3.1. The load shared between Origin and TRUenergy is equivalent to their market shares.

¹⁵ Jemena 2009, *Consultation on Electricity Retailers of Last Resort (Local Retailer Failure) Draft Decision*, September, p. 1.

Table 3.1 **Assignment of AGL's TNIs to the RoLRs**

<i>Where AGL was the local retailer suspended from the wholesale market</i>	
<i>Origin Energy</i>	<i>TRUenergy</i>
VCB5	VMT2
VERT	VRW6
VHTS	VTS4
VMT6	VBL2
VRT6	VBTS
VRW2	VKT2
VSV2	VTST
VTBT	VTTS
VBL6	VSM6
VWM6	
<i>Share of AGL's TNI loads assigned to RoLRs</i>	
55%	45%
<i>Market shares of remaining local retailers without AGL</i>	
55.3%	44.7%

3.2 TRUenergy

If TRUenergy is to exit the market, the allocation of its TNIs, and the loads associated with those TNIs, to the remaining local retailers is shown in Table 3.2. The load shared between AGL and Origin Energy broadly reflects their market shares.

Table 3.2 **Assignment of TRUenergy's TNIs to the RoLRs**

<i>Where TRUenergy was the local retailer suspended from the wholesale market</i>	
<i>Origin Energy</i>	<i>AGL</i>
VMWT	VCBT
VRW3	VER2
VRW7	VGNT
VTS3	VMBT
VWO6	VTT2
	VWO2
	VSMT
	VYP1
<i>Share of TRUenergy's TNI loads assigned to RoLRS</i>	
52%	48%
<i>Market shares of remaining local retailers without TRUenergy</i>	
52.9%	47.1%

3.3 Origin Energy

If Origin Energy is to exit the market, the allocation of its TNIs, and the loads associated with those TNIs, to the remaining local retailers is shown in Table 3.3. The load shared between AGL and TRUenergy broadly reflects their market shares.

Table 3.3 **Assignment of Origin Energy's TNIs to the RoLRs**

<i>Where Origin Energy was the local retailer suspended from the wholesale market</i>	
<i>AGL</i>	<i>TRUenergy</i>
VBL8	VBT2
VFBT	VRT7
VRT2	VSVT
VTS2	SBE1
VWM2	VBE2
VWM7	VBE6
SBL1	VBL3
VATS	VBL7
VBAT	VG6
VFB2	VKG2
VHOT	VKG6
VKTS	VRC6
VRC2	VTGT
VSHT	
<i>Share of Origin Energy's TNI loads assigned to RoLRS</i>	
51%	49%
<i>Market shares of remaining local retailers without Origin Energy</i>	
52.5%	47.5%

3.4 Implementation of final decision

Submissions from Jemena¹⁶ and United Energy Distribution¹⁷ sought clarification on whether AEMO will be responsible for transferring the customers' NMIs associated with the TNIs to the correct RoLR.

Currently, AEMO has instructions from the Commission on the allocation of customers in the case of a non-local retailer failure¹⁸

The Commission will now formally advise AEMO to transfer customers of the failed local retailer to the remaining two local retailers on the basis of the TNIs set out in this final decision. A copy of the Commission's letter to AEMO will be inserted in the Commission's *Retailer of last resort procedural manual*.

¹⁶ Jemena 2009, op. cit., p. 2.

¹⁷ United Energy Distribution 2009, *Electricity Retailers of Last Resort (Local Retailer Failure)*, *Draft Decision*, September, p. 1.

¹⁸ The Commission's standing instructions to AEMO for a non-local retailer failure in Victoria can be found in the *Retailer of last resort procedural manual*, which is available on the Commission's website (www.esc.vic.gov.au) under Energy, Regulation & Compliance, and Codes & Guidelines. AEMO subsumed NEMMCO's responsibility from 1 July 2009.