



Queensland

Electricity Amendment Regulation (No. 2) 2010

Subordinate Legislation 2010 No. 337

made under the

Electricity Act 1994

Contents

		Page
1	Short title	3
2	Regulation amended	3
3	Replacement of s 76 (Who is the retailer of last resort or the ROLR)	3
	76 Who is the retailer of last resort	3
	76A Who is a relevant distribution entity	5
4	Insertion of new ch 3, pt 3, div 1A	5
	Division 1A Retail entities appointed as retailers of last resort	
	77A Invitation for expressions of interest	5
	77B Appointment as ROLR	6
	77C Ending appointment as ROLR	7
5	Amendment of s 78 (Default contract on ROLR event)	7
6	Replacement of s 81 (Terms)	8
	81 Terms	8
7	Omission of s 85 (Additional one-off ROLR fee)	8
8	Insertion of new ch 3, pt 3, div 3A	8
	Division 3A Recovery of amounts paid under the scheme	
	Subdivision 1 Retailer of last resort	
	87FA ROLR may recover costs of ROLR event	8

Contents

	87FB	Working out apportioned amount	10
	Subdivision 2	Relevant distribution entities	
	87FC	Application of sdiv 2	11
	87FD	Recovery of costs of ROLR event by relevant distribution entity	11
9		Insertion of new s 87GA	12
	87GA	Security deposits and amounts prepaid to defaulting retailer	12
10		Amendment of sch 9 (Dictionary)	13

1 Short title

This regulation may be cited as the *Electricity Amendment Regulation (No. 2) 2010*.

2 Regulation amended

This regulation amends the *Electricity Regulation 2006*.

3 Replacement of s 76 (Who is the *retailer of last resort* or the *ROLR*)

Section 76—

omit, insert—

‘76 Who is the *retailer of last resort*

‘(1) The *retailer of last resort*, for an affected customer, is any 1 of the following as provided for in subsections (2) to (5)—

- (a) an appointed retailer;
- (b) Country Energy;
- (c) the Energex area retailer;
- (d) another entity decided by the Minister.

Note—

The GOC Ergon Energy and its subsidiaries can never be the defaulting retailer for an affected customer. See section 72(1).

‘(2) An appointed retailer is the ROLR for an affected customer if—

- (a) the customer is a customer to whom the retailer’s appointment relates; and
- (b) the retailer is not already the ROLR for the maximum number of customers under the retailer’s appointment; and
- (c) the retailer is not the defaulting retailer.

‘(3) Country Energy is the ROLR for an affected customer if—

- (a) an appointed retailer is not the ROLR for the customer; and

- (b) the customer is in Country Energy's area; and
 - (c) Country Energy is not the defaulting retailer.
- '(4) The Energex area retailer is the ROLR for an affected customer if—
- (a) neither an appointed retailer nor Country Energy is the ROLR for the customer; and
 - (b) the Energex area retailer is not the defaulting retailer.
- '(5) Another entity decided by the Minister, with the entity's agreement, is the ROLR for the affected customer if the ROLR for the customer is not otherwise established under subsection (2), (3) or (4).
- '(6) A decision under subsection (5) may be made before or after the ROLR event.
- '(7) The Minister must, as soon as practicable after making the decision, notify the decision by gazette notice and give QCA a copy of the notice.
- '(8) In this section—

appointed retailer means a retail entity appointed by the Minister under section 77B if the entity's appointment has not ended.

Country Energy's area means—

- (a) Country Energy's supply area described in Country Energy's special approval no. SA21/98; or

Editor's note—

A copy of a map of the area may be inspected at the department's office at 61 Mary Street, Brisbane.

- (b) the distribution area under any distribution authority issued to Country Energy.

Energex area retailer means the retail entity whose retail area includes all or most of the distribution area of Energex.

‘76A Who is a *relevant distribution entity*

‘(1) A *relevant distribution entity* is a distribution entity who, immediately before the happening of a ROLR event, supplied electricity to an affected customer.

‘(2) In this section—

distribution entity means any of the following—

- (a) Energex;
- (b) Ergon Energy;
- (c) Country Energy, to the extent that it supplies electricity in—
 - (i) the supply area described in Country Energy’s special approval no. SA21/98; or

Editor’s note—

A copy of a map of the supply area may be inspected at the department’s office at 61 Mary Street, Brisbane.

- (ii) the distribution area under any distribution authority issued to Country Energy.’.

4 Insertion of new ch 3, pt 3, div 1A

Chapter 3, part 3—

insert—

‘Division 1A Retail entities appointed as retailers of last resort**‘77A Invitation for expressions of interest**

‘(1) The Minister may direct QCA to invite expressions of interest from retail entities for a retail entity to be appointed by the Minister as a ROLR for affected customers.

‘(2) The Minister may appoint a ROLR—

- (a) for affected customers in a particular part of the State; or
- (b) for a particular class of affected customers; or

- (c) for a particular number of affected customers.
- ‘(3) If directed by the Minister, QCA must invite expressions of interest from retail entities to be a ROLR for affected customers.
- ‘(4) The invitation must state the following—
 - (a) the criteria, as decided by QCA, to be addressed by the retail entity making the expression of interest;
 - (b) the day by which the expression of interest must be submitted to QCA (the *closing day*);
 - (c) how the expression of interest may be submitted to QCA.
- ‘(5) The invitation must be made in the way QCA considers appropriate having regard to the need to ensure retail entities—
 - (a) are made aware the process is being conducted; and
 - (b) have enough time to submit an appropriate expression of interest.
- ‘(6) A retail entity making an expression of interest may state in the expression of interest that it is made only for—
 - (a) affected customers in a particular part of the State; or
 - (b) a particular class of affected customer; or
 - (c) a particular number of affected customers.
- ‘(7) QCA must consider each expression of interest received before the closing day and may recommend 1 or more retail entities for appointment by the Minister as a ROLR for affected customers.

‘77B Appointment as ROLR

- ‘(1) The Minister may consider any expression of interest received before the closing day.
- ‘(2) In considering an expression of interest made by a retail entity, the Minister must have regard to—

-
- (a) the retail entity's responses to the criteria stated in the invitation; and
 - (b) any statement in the expression of interest made under section 77A(6); and
 - (c) any recommendation QCA has made for the retail entity.
- '(3) The Minister may appoint more than 1 retail entity as a ROLR for affected customers.
- '(4) However, there can not be more than 1 ROLR for an affected customer.
- '(5) The Minister must, as soon as practicable after making the appointment, notify the appointment by gazette notice and give QCA and any retail entity appointed under subsection (3) a copy of the notice.

'77C Ending appointment as ROLR

- '(1) The Minister may give a retail entity written notice that its appointment under section 77B(3) as a ROLR for affected customers is to end.
- '(2) In making a decision under subsection (1), the Minister may have regard to any written requests made by the ROLR to the Minister asking that its appointment ends.
- '(3) The appointment of a retail entity as a ROLR ends 30 days after the notice is given.
- '(4) If the Minister gives a retail entity a notice under subsection (1), the Minister must give QCA a copy of the notice.'

5 Amendment of s 78 (Default contract on ROLR event)

Section 78(3), 'section 76(1)(b)'—

omit, insert—

'section 76(5)'.

[s 6]

6 Replacement of s 81 (Terms)

Section 81—

omit, insert—

‘81 Terms

‘The terms of a ROLR contract for an affected customer who is a small customer are the terms of the standard retail contract.’.

7 Omission of s 85 (Additional one-off ROLR fee)

Section 85—

omit.

8 Insertion of new ch 3, pt 3, div 3A

Chapter 3, part 3—

insert—

‘Division 3A Recovery of amounts paid under the scheme

‘Subdivision 1 Retailer of last resort

‘87FA ROLR may recover costs of ROLR event

- ‘(1) This section applies if a ROLR for affected customers incurs costs because a ROLR event has happened.
- ‘(2) The ROLR may ask QCA to approve an amount (the *requested amount*) to compensate the ROLR for the costs incurred.
- ‘(3) If the ROLR asks QCA to approve the requested amount, QCA must promptly decide whether—
 - (a) to approve the requested amount; or
 - (b) to refuse to approve the requested amount; or
 - (c) to approve another amount.

-
- ‘(4) In making the decision, QCA must consider—
- (a) the ROLR’s incremental administration costs; and
 - (b) for affected customers who are small customers—the ROLR’s incremental energy costs incurred by providing customer retail services to the small customers, to the extent those costs are not included in notified prices.
- Example of incremental energy costs—*
- additional hedging costs relating to the load for which the ROLR becomes the financially responsible retail entity
- ‘(5) An amount approved by QCA under subsection (3)(a) or (c) is called the **recovery amount**.
- ‘(6) If QCA decides to approve the recovery amount, QCA must—
- (a) if there is more than 1 relevant distribution entity for the affected customers—work out under section 87FB the proportion of the recovery amount each distribution entity must pay to the ROLR (the **apportioned amount**); and
 - (b) notify the ROLR and each relevant distribution entity of its decision.
- ‘(7) The notice under subsection (6)(b) must state—
- (a) the recovery amount; and
 - (b) the name of the ROLR; and
 - (c) if there is more than 1 relevant distribution entity for the affected customers—the apportioned amount payable to the ROLR by each relevant distribution entity; and
 - (d) that the relevant distribution entity must, within 30 days after receiving the notice, pay the ROLR the recovery amount or the apportioned amount.
- ‘(8) The relevant distribution entity must, within 30 days after receiving the notice, pay the ROLR the recovery amount or, if the notice states the entity must pay an apportioned amount, the apportioned amount.

[s 8]

- ‘(9) If QCA refuses to approve the requested amount, QCA must promptly notify the ROLR of its decision and give the ROLR an information notice for the decision.

‘87FB Working out apportioned amount

- ‘(1) This section applies if—
- (a) QCA has approved a recovery amount for a ROLR under section 87FA(5); and
 - (b) there is more than 1 relevant distribution entity for the affected customers transferred to the ROLR.
- ‘(2) QCA must work out the apportioned amount for each relevant distribution entity using the following formula—

$$A = \frac{C}{T} \times R$$

where—

A means the apportioned amount for the relevant distribution entity.

C means the number of affected customers connected to the relevant distribution entity’s supply network that are transferred to the ROLR.

T means the total number of affected customers for a ROLR event that are transferred to the ROLR.

R means the recovery amount.

Example—

A ROLR event happens and there are 5000 affected customers transferred to the ROLR. The affected customers are connected to the supply networks of 2 relevant distribution entities.

There are 3700 affected customers connected to Energex’s supply network and 1300 affected customers connected to Ergon Energy’s supply network.

The ROLR for the affected customers asks QCA to approve a recovery amount. QCA decides to approve a recovery amount of \$100000.

The apportioned amount for Energex, worked out using the formula under subsection (2), is \$74000.

The apportioned amount for Ergon Energy, worked out using the formula under subsection (2), is \$26000.

‘Subdivision 2 Relevant distribution entities

‘87FC Application of sdiv 2

- ‘(1) This subdivision applies if the AER decides the retailer of last resort scheme under this part is a jurisdictional scheme under the National Electricity Rules, clause 6.18.7A.

Note—

Under the National Electricity Rules, clause 6.18.7A (Recovery of jurisdictional scheme amounts), any person may request the AER to decide a scheme is a jurisdictional scheme.

- ‘(2) In this section—
decide includes determine.

‘87FD Recovery of costs of ROLR event by relevant distribution entity

- ‘(1) This section applies to a relevant distribution entity that has paid a ROLR for affected customers a recovery amount or an apportioned amount.
- ‘(2) The relevant distribution entity may include the amount in a pricing proposal the entity gives the AER for approval under the National Electricity Rules, chapter 6.
- ‘(3) If the relevant distribution entity includes the amount in its pricing proposal, the pricing proposal must also provide for allocating the amount between network users using the same methodology, as set out in the pricing proposal, for allocating the entity’s annual revenue requirement.
- ‘(4) In this section—
annual revenue requirement see the National Electricity Rules, chapter 10.
network user see the National Electricity Rules, chapter 10.’.

9 Insertion of new s 87GA

Chapter 3, part 3, division 4—

insert—

‘87GA Security deposits and amounts prepaid to defaulting retailer

- ‘(1) This section applies to a security deposit given or an amount prepaid by an affected customer to the defaulting retailer for the customer before the happening of a ROLR event.
- ‘(2) The defaulting retailer must, as soon as practicable after the ROLR event—
- (a) work out the amount owed by an affected customer to the defaulting retailer for energy consumed before the ROLR event (the ***debt amount***); and
 - (b) work out the total of any security deposit held and amount prepaid (the ***credit amount***); and
 - (c) if the credit amount is greater than the debt amount—work out the amount that would remain if the debt amount was deducted from the credit amount (the ***balance amount***).
- ‘(3) The defaulting retailer must pay the affected customer the balance amount as soon as practicable after the ROLR event happens.
- ‘(4) In this section—
- amount prepaid***, by an affected customer, means—
- (a) an amount paid in advance towards the customer’s electricity account; and
 - (b) any other amount applied in credit towards the customer’s electricity account.

defaulting retailer includes an insolvency official appointed for the defaulting retailer.

security deposit—

- (a) means an amount paid by a customer to a retail entity as security for customer retail services; and
- (b) includes interest accrued on that amount.’.

10 Amendment of sch 9 (Dictionary)

(1) Schedule 9, definitions *retailer of last resort* and *ROLR*—
omit.

(2) Schedule 9—
insert—

‘apportioned amount section 87FA(6)(a).

closing day, for an expression of interest, see section 77A(4)(b).

expression of interest means an expression of interest made under section 77A.

recovery amount see section 87FA(5).

relevant distribution entity, for a ROLR event, see section 76A.

retailer of last resort see section 76.

ROLR means the retailer of last resort.’.

ENDNOTES

- 1 Made by the Governor in Council on 2 December 2010.
- 2 Notified in the gazette on 3 December 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

© State of Queensland 2010