

2024 Electricity Retail Supply Code Review (Retailer of Last Resort Amendments)

Final Decision Paper

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Abbreviations and acronyms

Commission	Utilities Commission of the Northern Territory
EPO	Electricity Pricing Order (as defined in the <i>Electricity Reform Act 2000</i>)
ER Act	<i>Electricity Reform Act 2000</i>
ER Regulations	Electricity Reform (Administration) Regulations 2000
ERS Code	Electricity Retail Supply Code
PWC	Power and Water Corporation
RoLR	Retailer of last resort
SCTC	System Control Technical Code
UC Act	<i>Utilities Commission Act 2000</i>
UC Regulations	Utilities Commission Regulations 2001

Executive summary

In accordance with section 24(1) and (3) of the *Utilities Commission Act 2000* and section 44B of the *Electricity Reform Act 2000* (ER Act), the Commission has decided to amend the Commission's Electricity Retail Supply Code (the ERS Code) as detailed in this Final Decision document. The Final Decision outlines the Commission's reasoning for the amendments to the ERS Code.

Some key changes included in version 5 of the ERS Code are described (in simplified terms) below:

- The Commission may issue an exemption to an electricity entity or other person to whom the ERS Code applies that exempts the holder from the obligation to comply with one or more provisions of the ERS Code (clause 1.10).
- The retailer of last resort (RoLR) must submit its proposed RoLR terms and conditions for deemed RoLR contracts to the Commission for approval within three months of commencement of the clause or within three months of a request by the Commission to undertake a review (clause 9.1).
- The RoLR must, if required by an electricity pricing order (EPO), submit its proposed RoLR tariffs to the Commission as soon as practicable and in any event no later than one month after the EPO is made (clause 9.2).
- The network provider, the market operator and the RoLR must make and maintain a 'RoLR plan' that supports a timely and coordinated response. The plan must be reviewed every two years and be provided to the Commission (clause 9.3).
- The Commission must notify the network provider and the market operator of the occurrence of a RoLR event and the RoLR transfer date (clause 9.5). The Commission is required to notify the RoLR and the failed retailer under the ER Act.
- The network provider is required to transfer all customers of the failed retailer to the RoLR with effect from the RoLR transfer date and cancel any transfers to the failed retailer that would have otherwise been completed (clause 9.6.2). The network provider must commence processing the transfer of customers within a reasonable timeframe after receiving notification (clause 9.6.5).
- Prior requests for transfers away from the RoLR continue to be valid (clause 9.6.3). Certain service order requests placed by the failed retailer must continue to be processed (clause 9.6.6).
- The market operator is required to ensure that settlements made under the System Control Technical Code (SCTC) accurately reflect the RoLR transfer date (clause 9.6.4).
- The network provider and the failed retailer may be required to provide certain information to the RoLR within five business days (clauses 9.6.7, 9.6.8, 9.8.2, and 9.8.3).
- The RoLR has obligations to communicate with customers about its appointment, including publishing information on its website within three business days and writing to customers within 25 business days (clauses 9.7.2 and 9.7.3).
- The failed retailer has obligations towards its former customers including publishing a notice on its website and resolving complaints (clauses 9.8.4 to 9.8.9).
- The RoLR must submit any application for a cost recovery scheme within nine months of appointment or another timeframe allowed by the Commission. The application must include certain information to enable the Commission to assess the claims for costs, including information relating to any claim for costs from an insolvency official of a failed retailer. The Commission may require supporting information or consult before making its decision (see clause 9.9).
- The Commission may assess and report on the operation of RoLR arrangements (clause 9.10).

The amendments will commence on 8 February 2025.

1 | Introduction

Background

In the Northern Territory, the Commission is authorised to make codes or rules (including varying or revoking codes) relating to the conduct or operations of a regulated industry or licensed entities.¹ The Commission is authorised by section 44B of the ER Act to make a code relating to arrangements to support the operation of retail competition in the electricity supply industry and arrangements between electricity entities and customers. The ERS Code is made pursuant to this authorisation.

The purpose of a Retailer of Last Resort (RoLR) scheme is to ensure that in the event of an electricity retailer failure, arrangements are in place to ensure that relevant customers continue to receive electricity supply. A RoLR scheme is in place in Western Australia through the *Electricity Industry Act 2004*, and other Australian jurisdictions through the National Energy Retail Law.

In the Territory, historically, there have been no RoLR arrangements provided for under legislation; however the *Utilities Commission Act 2000* (UC Act) and the Utilities Commission Regulations 2001 (UC Regulations) (as in force at the time) provided for the Commission to make a code about retail supply in the electricity supply industry that may deal with RoLR arrangements (the ERS Code). While the previous version of the ERS Code included a RoLR scheme, because the RoLR provisions were not contained in or authorised by overarching legislation, the RoLR scheme was ineffective and may not have been enforceable on the basis of inconsistency with relevant Commonwealth legislation.

Prior to this review, the ERS Code was most recently amended in 2023 (version 4). As part of the 2023 review, and for the reason outlined above, the Commission decided to revoke clause 9 of the ERS Code (which covered RoLR arrangements) and insert a new clause 9, which provided for a modified RoLR scheme as an interim solution until legislative changes could be made by the Territory Government.

The modified RoLR scheme in version 4 of the ERS Code is not comprehensive nor does it provide sufficient certainty or consumer protection in the event of a retailer failure. To be a fulsome and legally enforceable RoLR scheme, legislative change was needed.

On 1 July 2024, legislative changes commenced that, among other things, support the operation of a fulsome RoLR scheme. Specifically, parts 2 and 4 of the *Electricity Legislation Amendment Act 2023* and the Electricity Legislation Amendment Regulations 2024 commenced, amending the UC Act, the ER Act, the UC Regulations, the Electricity Reform (Administration) Regulations 2000 (ER Regulations) and the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016.

The legislative amendments support the operation of a fulsome and legally enforceable RoLR scheme in the Territory by resolving the issue of inconsistency with Commonwealth legislation and by providing the required powers for the Commission to implement a RoLR scheme in its ERS Code.

In July 2024, the Commission published a consultation paper and associated draft version 5 of the ERS Code to consult on proposed amendments to the ERS Code to implement a fulsome and legally enforceable RoLR scheme in the Territory. The Commission received two submissions from Jacana Energy and Power and Water Corporation (PWC), which have been published on the Commission's website. In October 2024, the Commission also led a joint desktop exercise with representatives from the RoLR, the market operator and the network provider to help participating stakeholders compare key decision-making points and communication flows in the lead up to and after the event.

Feedback received from these stakeholders helped identify gaps and uncertainties in the draft version 5 of the ERS Code which the Commission has endeavoured to resolve in this final decision and final version 5 of the ERS Code.

¹ Section 24(1) and (3) of the *Utilities Commission Act 2000*.

Purpose of this review

The Commission reviewed the ERS Code to ensure it aligns with the new legislative framework and to implement a fulsome and legally enforceable RoLR scheme in the Territory.

Purpose of this paper

This paper sets out the Commission's amendments to the ERS Code, following consideration of submissions and other feedback to its July 2024 consultation paper.

Timetable for review

The relevant timeframes for commencement of the amended ERS Code are outlined below:

Action	Timing
Amend ERS Code and provide Notice of Variation in Gazette	9 January 2025
Amended Code commences	8 February 2025

2 | Overview of amendments to the Electricity Retail Supply Code

Summary table

The following is a summary table to assist stakeholders interpret amendments to the ERS Code as part of the Commission's final decision on the 2024 Review of the ERS Code (RoLR Amendments). A marked-up version of the ERS code is published on the Commission's website. Minor formatting and drafting corrections and amendments considered to be immaterial are not included in the table below.

The amendments will commence on 8 February 2025, 30 days after version 5 of the ERS Code is made.

ERS Code version 5 clause reference	Summary of change
Foreword	The foreword has been updated to replace out-of-date references to the legislation authorising the ERS Code. A note has been added to explain that authorisation for the ERS Code moved from the regulation 2A of the UC Regulations to the ER Act due to the <i>Electricity Legislation Amendment Act 2023</i> (NT).
Clause 1.1.2	The references to the legislation authorising the ERS Code have been updated, and the description of the ERS Code from section 44B of the ER Act is used in place of the previous description taken from the UC Regulations.
Clause 1.2.1	The list of matters that the ERS code may make provision for has been extended to include those mentioned in section 44B(2) of the ER Act and regulation 17 of the ER Regulations.
Clause 1.2.2	The list of matters that the Commission has had regard to when making the ERS Code has been extended to include a reference to the new matters in section 44C of the ER Act.
Clause 1.4.1	The clause explaining who the ERS Code applies to has been updated to state the code applies to electricity entities, the system controller, the market operator (where specified), and the Commission. The update reflect sections 44B(4)-(6) and the amended definition of 'electricity entity' in the ER Act, as well as regulation 3F(2) of the ER Regulations.
Clause 1.10*	<p>A new generic exemption clause has been included in the ERS Code whereby the Commission may issue an exemption to an electricity entity or other person to whom the ERS Code applies that exempts the holder from the obligation to comply with one or more provisions of the ERS Code. The exemption clause has the following features:</p> <ul style="list-style-type: none"> • An exemption must be in writing and must identify the holder of the exemption and the provisions that the exemption applies to (clause 1.10.2(a)-(b)). • An exemption may be subject to conditions determined by the Commission (clause 1.10.2(c)), and the holder of an exemption must comply with any such conditions (clause 1.10.3).

ERS Code version 5 clause reference

Summary of change

- The Commission may, in writing, modify or cancel an exemption (clause 1.10.4), but must first notify the holder and give the holder a reasonable opportunity to make representations to the Commission about the matter (clause 1.10.5).
- The Commission may publish information on its website about issued, modified or cancelled exemptions (clause 1.10.6).
- In deciding whether to issue, modify or cancel an exemption, the Commission will have regard to the necessary considerations under relevant legislation, and any other such matters as the Commission considers relevant (clause 1.10.7).

The exemption clause has been included to address the Commission's concerns regarding previous experiences where the Commission has been unable to exempt entities from obligations where unforeseen or extraneous circumstances arise.

The RoLR scheme included in version 5 of the ERS Code will require a high degree of cooperation between the various parties involved. While the exemption clause will not apply solely to the RoLR scheme, it may support the RoLR scheme in particular by potentially avoiding a situation where one entity is 'non-compliant' with its obligations due to the non-compliance or non-cooperation of another entity.

Clause 2.3.1

The list of matters the Commission will have regard to when deciding whether to amend the ERS Code has been extended to include the matters in section 44C of the ER Act.

Clause 5 (heading)

The heading 'Metrology' has been replaced with 'Metering' to reflect the terminology used in regulation 17 of the ER Regulations.

Clause 5.1.1

Clause 5.1.1 prohibits the transfer of a customer with an accumulation meter or unmetered installation. Clause 5.1.1 has been amended to include an exception to allow transfers due to a RoLR event. In practice, due to the existing regulatory framework, it is expected that all customers transferred due to a RoLR event would have an interval meter.

Clause 7.2 (heading)

The heading 'Service Orders' has been replaced with 'Service Order Arrangements' to reflect the terminology used in regulation 17 of the ER Regulations.

Clause 8.2.4

Clause 8.2.4 lists the only circumstances in which the network provider may reject a customer transfer request form. New subclause (e) allows for rejection where required by the retailer of last resort arrangements in clause 9.6. New subclause (f) cross-refers to the requirement for refusal under the new clause 8.2.4A (below).

ERS Code version 5 clause reference

Summary of change

ERS Code version 5 clause reference	Summary of change
Clause 8.2.4A	<p>The new clause 8.2.4A requires the network provider to reject a customer transfer request when the Commission has suspended the relevant retail licence under the ER Act, during the period of suspension.</p> <p>The Commission's intention is that the holder of a suspended retail licence should not be able to accept more customers during the period of suspension.</p>
Clause 8.2.5	<p>Clause 8.2.5 requires a network provider to use its best endeavours to resolve with a retailer any potential grounds for rejection of a customer transfer request form. An exception has been added for rejection due to the RoLR arrangements or due to licence suspension.</p>
Clause 8.2.25	<p>Clauses 8.2.22 and 8.2.23 provide for cooling off periods before customer transfers occur.</p> <p>The new clause 8.2.25 specifies that there is no cooling off period for customers being transferred to the RoLR, and that clauses 8.2.22 and 8.2.23 do not apply to those transfers.</p>
Clause 9.1	<p>Section 44F(c) of the ER Act and regulation 19 of the ER Regulations provide for the Commission to approve the terms and conditions (other than the tariff) applicable to the deemed contract between the RoLR and the customers of a failed retailer.</p> <p>New clause 9.1 sets out the timing for the RoLR to submit its proposed terms and conditions for approval, that is, within three months of commencement of the clause or a request by the Commission. Clause 9.1.4 explains that the most recently approved terms and conditions apply if the RoLR is appointed.</p>
Clause 9.2	<p>Section 44(3A) of the ER Act allows an EPO made by the Minister to determine specified prices for the purposes of the RoLR arrangements or to require the RoLR to submit its proposed tariffs to the Commission for approval.</p> <p>New clause 9.2 sets out the timing for the RoLR to submit its proposed tariffs for approval, if that is required by the EPO. The required timing is 'as soon as reasonably practicable and in any event no later than one month after the EPO is made'. The timeframe is intended to give sufficient time for the RoLR to take into account the terms of the EPO.</p> <p>Depending on the timing of the EPO, approval may occur after the start of the period the EPO applies to. For example, if the EPO is made in mid-June and will apply for the next financial year, the RoLR may not be in a position to submit its proposed RoLR tariffs until mid-July. To this end, clause 9.2.3 specifies that the approved tariffs apply for the period specified in the EPO, even if the Commission gives its approval after the start of that period.</p> <p>Clause 9.2 would only apply where the RoLR is required to submit its proposed tariffs to the Commission for approval. The EPO for the 2024-25 period, which was issued by the former Treasurer, does not include such a requirement, or any other provision for RoLR tariffs.</p>

ERS Code version 5 clause
reference

Summary of change

ERS Code version 5 clause reference	Summary of change
	<p>Jacana Energy's submission to the consultation paper stated that Jacana Energy envisages that it would only provide RoLR tariffs should this be an approved cost recovery method in line with clause 9.9.4(b) (this reference has now changed to 9.9.6(b)). The Commission considers that RoLR tariffs and the cost recovery method are separate matters and does not consider any changes are required to clause 9.2.</p> <p>Jacana Energy's submission to the consultation paper also states that the EPO currently in force does not provide for RoLR events, and that it may be beneficial for future iterations of the EPO to consider RoLR events. The EPO is made by the Treasurer under section 44 of the ER Act and is outside the scope of this review and the Commission's responsibilities. As such, the Commission does not consider any changes are required to clause 9.2.</p>
Clause 9.3	<p>New clause 9.3 requires the network provider, the market operator and the RoLR to each make and maintain a 'RoLR plan' that supports a timely and coordinated response to a RoLR event. The RoLR plan must include, among other things, adequate internal procedures that provide for the entity to comply with its relevant obligations.</p> <p>The initial plans are required within three months after commencement of the clause, and require review every two years. While the clause does not require the RoLR plans to be approved by the Commission, it does require the plans to be provided to the Commission when made and if amended.</p>
Clause 9.4	<p>New clause 9.4 allows the Commission to notify the network provider, the market operator and the RoLR if the Commission forms the belief there is a risk of a RoLR Event.</p> <p>These entities must maintain the confidentiality of information provided under the proposed clause, including by restricting access within the organisation to those with a need to know.</p>
Clause 9.5	<p>New clause 9.5 specifies that a 'RoLR event' occurs when the appointment is made under section 44D(1) of the ER Act. The definition of 'RoLR event' under clause 9.5 is intentionally distinguished from the definition of 'RoLR transfer event' under the ER Act.</p> <p>Clause 9.5 also requires the Commission to notify the network provider and market operator of the event and the RoLR transfer date. Section 44D(2)(b) and (c) of the ER Act already require the Commission to notify the failed retailer and the RoLR, and publish notice of the appointment on its website.</p>
Clause 9.6.1 to 9.6.3	<p>Under the ERS Code, 'transfer' refers to the transfer from one retailer to another retailer of the rights and obligations at an exit point in connection with the supply of electricity to a customer. In practice, this involves the transfer of a customer within retail market systems. The transfer process means that, for example, the correct retailer is given metering information for that customer's supply point and pays for that customer's consumption under the wholesale market arrangements.</p> <p>New clause 9.6.2 provides for transfers where a RoLR is appointed. The clause requires the network provider to transfer all the customers of the failed retailer to the RoLR with effect from the RoLR transfer date, and cancel any transfers to the failed retailer that would have been completed on or after the RoLR transfer date.</p>

ERS Code version 5 clause reference

Summary of change

ERS Code version 5 clause reference	Summary of change
	<p>New clause 9.6.3 confirms that prior requests for transfers away from the failed retailer continue to be valid. However, in principle, the intended dates for these transfers could be after the RoLR transfer date. The clause would therefore allow for an interim transfer to the RoLR on the RoLR transfer date, with a further transfer to the customer's chosen retailer on the date previously requested by the retailer.</p>
Clause 9.6.4	<p>New clause 9.6.4 requires the market operator to ensure that settlements made under the SCTC accurately reflect transfers made in accordance with clause 9.6 with effect from the RoLR transfer date.</p> <p>The aim is to align the start date for the deemed contracts between the RoLR and the customers of the failed retailer under section 44F of the ER Act, and the date that transfer takes effect in both retail and wholesale market systems.</p>
Clause 9.6.5*	<p>PWC's submission to the consultation paper suggested that a minimum timeframe be included between the notification of a RoLR event and the transfer date. PWC subsequently provided feedback informally that it considers the ERS Code should be clearer that it does not require all customers to be transferred within business operative systems as of the transfer date, particularly given the transfer date may be retrospective. The Commission considers PWC's suggestion is reasonable and has included a clause to this effect.</p> <p>New clause 9.6.5 requires the network provider to commence processing the transfer of customers within a reasonable timeframe after receiving notification and use reasonable endeavours to complete the processing as soon as practicable.</p>
Clause 9.6.6*	<p>The draft version 5 of the ERS Code (at Appendix A of the consultation paper) was arguably unclear about the status of some service order requests (such as customer reconnections and disconnections) placed by a failed retailer prior to a RoLR event.</p> <p>To resolve any uncertainty, the Commission has included a new clause 9.6.6 which requires the network provider, to the extent possible, to process all service order requests placed by the failed retailer, except for transfers to the failed retailer that would have been completed on or after the RoLR transfer date. The intention of the clause is to ensure, where possible, that customer reconnections and disconnections occur as planned.</p>
Clause 9.6.7* and 9.6.8*	<p>Section 44H(1) of the ER Act allows the Commission to direct the failed retailer to provide information about its customers to the RoLR. The information the Commission may direct the failed retailer to provide is listed in regulation 21A(1) of the ER Regulations and is critical to the ability of the RoLR to identify and provide services to customers of the failed retailer.</p> <p>The Commission is aware that the network provider holds most, but not all, of the information listed at regulation 21A(1) and could provide this information to the RoLR in a situation where the failed retailer does not comply with its obligation to send the information to the RoLR.</p>

ERS Code version 5 clause reference

Summary of change

ERS Code version 5 clause reference	Summary of change
	New clauses 9.6.7 and 9.6.8 require the network provider, if requested by the Commission and within five business days, to provide to the RoLR any of the prescribed information listed at regulation 21A(1) that is within its possession or control. The requirement is only at the Commission's request as the retrieval and sending of this information is likely to come at a cost and will not be necessary in all cases.
Clause 9.7.1	<p>Section 44H(1) of the ER Act allows the Commission to direct the failed retailer to provide information about its customers to the RoLR. The information the Commission may direct the failed retailer to provide is listed in regulation 21A(1) of the ER Regulations.</p> <p>To enable the Commission to monitor compliance and the operation of the RoLR scheme, new clause 9.7.1 requires the RoLR to notify the Commission when it has received the information.</p>
Clause 9.7.2 and 9.7.3	<p>New clauses 9.7.2 and 9.7.3 set out the obligations of the RoLR to communicate with customers about its appointment. The provisions require the RoLR, within three business days, to publish notice on its website about the RoLR event and the terms, conditions and tariffs on which it will be selling electricity to customers of the failed retailer.</p> <p>The RoLR will also be required to write to the customers of the failed retailer as soon as practicable and in any event within 25 business days with the information specified in the ERS Code, including information for the customer about its right to transfer to another retailer or contract at any time and such other information as may be specified by the Commission.</p>
Clause 9.8.1 and 9.8.2*	<p>Section 44H(1) of the ER Act allows the Commission to direct the failed retailer to provide information about its customers to the RoLR. The information the Commission may direct the failed retailer to provide is listed in regulation 21A(1) of the ER Regulations and is critical to the ability of the RoLR to identify and provide services to customers of the failed retailer.</p> <p>New clause 9.8.1 requires the failed retailer to notify the Commission when it has given the RoLR the information required by a notice under section 44H(1) and when it has written to its former customers if required to do so under clause 9.8.5 (below).</p> <p>The draft version 5 of the ERS Code (Appendix A to the consultation paper) did not include any timeframe within which the information would need to be provided. However, due the importance of the information to the RoLR's ability to provide services, the Commission has included a new clause 9.8.2 which requires the failed retailer to provide the information required by a notice under section 44H(1) within five business days of the date of the direction.</p>
Clause 9.8.3*	Regulation 18(5) of the ER Regulations requires the RoLR to place orders with the network provider for any service orders already paid for and ensure completion of any service orders already placed. A gap existed in the draft version 5 of the ERS Code (at Appendix A of the consultation paper) as there was no corresponding obligation on the failed retailer to provide this information to the RoLR.

ERS Code version 5 clause reference

Summary of change

ERS Code version 5 clause reference	Summary of change
	<p>To resolve this gap, the Commission has included a new clause 9.8.3 which allows the Commission to direct the failed retailer to provide to the RoLR, within five business days, a list of all outstanding matters relating to a former customer of the failed retailer for which a Service Order Request is or would have been required, including basic information on those matters.</p>
Clause 9.8.4 to 9.8.9*	<p>New clauses 9.8.4 to 9.8.9 deal with the obligations of a failed retailer towards its former customers. The obligations are only enlivened if the Commission gives a notice to the failed retailer. This is intended to ensure that the obligations placed on the failed retailer are proportionate to the number and nature of customers affected by the retailer's failure.</p> <p>Clause 9.8.4, if enlivened, requires the failed retailer to publish notice of the event on its website with information to direct customers to the website and contact details of the RoLR.</p> <p>Clause 9.8.5, if enlivened, requires the failed retailer to write to its former customers with information about the event and information about the consumer protections in regulation 18 of the ER Regulations. These protections relate to, among other things, the cancellation of direct debits, the application of advance payments to the customer's bill and the return of any balance, and continued compliance with payment plans.</p> <p>Clause 9.8.6 allows the information required to be provided under clause 9.8.5 to be provided as an insert to the customer's final bill.</p> <p>Clause 9.8.7, if enlivened, requires the failed retailer to give assurance to the Commission that it has complied with its obligations (relevant to consumer protection) under regulation 18 of the ER Regulations.</p> <p>Clause 9.8.8, if enlivened, requires a failed retailer to maintain communication channels for former customers to raise and resolve complaints or disputes arising on, before or after the appointment of the RoLR. A variation from the draft version 5 of the Code (at Appendix A of the consultation paper) is that the obligation applies only for the period specified by the Commission. This variation is intended to ensure that the obligation is not indefinite.</p> <p>Clause 9.8.9, if enlivened, requires that the failed retailer maintain all arrangements in place with relevant external entities for resolving customer complaints or disputes arising on, before or after the appointment of the RoLR. A variation from the draft version 5 of the Code (at Appendix A of the consultation paper) is that the obligation applies only for the period specified by the Commission. This variation is intended to ensure that the obligation is not indefinite.</p>
Clause 9.9*	<p>Section 44G of the ER Act provides for cost recovery arising from a RoLR event. The provision extends to costs of the RoLR and the insolvency official of a failed retailer and is supplemented by regulation 21 of the ER Regulations.</p> <p>New clause 9.9 in the ERS Code sets up the framework for the RoLR to apply to the Commission with an application for a cost recovery scheme.</p> <p>The RoLR's application must include information relating to any claim for costs from an insolvency official of a failed retailer, and as such the RoLR is required to write to the insolvency official of a failed retailer advising that notice of the claim must be lodged with the RoLR as soon as practicable and the notice must contain sufficient detail to enable to RoLR to include the insolvency official's known and anticipated costs in its application to the Commission. The</p>

ERS Code version 5 clause
reference

Summary of change

requirement for the RoLR to write to the insolvency official is a variation from the draft version 5 of the ERS Code (at Appendix A of the consultation paper) and is intended to provide additional guidance to the parties involved as to the application of the framework.

Jacana Energy's submission to the consultation paper requested that the Commission considers extending the timeframe for the application from six to nine months from the appointment of the RoLR, consistent with arrangements in other jurisdictions. The Commission has considered Jacana Energy's request and agrees a nine month timeframe is appropriate. Accordingly, the framework requires the application to be made within nine months of the appointment of the RoLR, or any longer period allowed by the Commission.

The RoLR's application must contain the information specified in clause 9.9.4 to enable the Commission to assess the claims for costs and what form the cost recovery scheme should take.

The framework includes some flexibility to allow the RoLR, with the consent of the Commission, to amend an application for cost recovery where it receives further information or an amended claim from the insolvency official of a failed retailer. The Commission expects it would only provide such consent where there were unforeseen or extraneous circumstances which delayed the availability of information as to costs.

The framework allows the Commission to require supporting information or consult before making its decision on the cost recovery scheme.

Clause 9.10

The Commission may, in appropriate circumstances, assess and report on the operation of RoLR arrangements. New clause 9.10 requires electricity entities, on request, to give the Commission information it may need for that process.

Clause 10.6.1

Clause 10.6.1 prevents a retailer entering into an electricity supply contract for premises with both life support equipment and a prepayment meter. There is an exception for deemed supply contracts, and this exception has been extended to RoLR contracts.

Schedule 1 [Definition added]:
deemed RoLR contract

The new term refers to the contract put in place by section 44F(a) of the ER Act.

Schedule 1 [Definition added]:
electricity pricing order

The new term has the meaning in the ER Act, that is, an order issued by the Minister regulating prices for the sale of electricity to customers of a class prescribed by regulation.

Schedule 1 [Definition added]:
Electricity Reform Regulations

The new term means the *Electricity Reform (Administration) Regulations 2000* (NT).

Schedule 1 [Definition
amended]: erroneous transfer

The term has been amended to exclude a transfer required under clause 9.6 due to the occurrence of the RoLR event.

Schedule 1 [Definition added]:
exemption*

The new term refers to an exemption issued under the new clause 1.10.

ERS Code version 5 clause reference

Summary of change

Schedule 1 [Definition added]: failed retailer	The new term has the meaning in the ER Act, that is, an electricity retailer in respect of which the Commission has determined under section 44D to appoint the RoLR to sell electricity to that retailer's customers.
Schedule 1 [Definition added]: insolvency official	The term 'insolvency official' is defined in the ER Act, but in the ERS Code, the new term is used to refer to the particular insolvency official appointed to a failed retailer.
Schedule 1 [Definition amended]: Jacana Energy	The term has been amended to refer to 'the RetailCorp as defined in section 3 of the <i>Power Retail Corporation Act 2014</i> (NT)', consistent with the definition of 'RoLR' in the ER Act.
Schedule 1 [Definition amended]: market operator	For consistency, the term has been amended to refer to a function of the 'system controller,' as opposed to the 'Power System Controller'.
Schedule 1 [Definition amended]: previous retailer	The term has been amended to refer to the retailer that supplied the customer before the 'transfer date' (instead of the 'transfer time').
Schedule 1 [Definition amended]: reactive period	The term has been slightly amended to refer to 'procedures for the appointment of a retailer of last resort' as this is more accurate.
Schedule 1 [Definition amended]: residential customer	The term has been amended to the definition in the ER Act, that is, a customer who purchases or wishes to purchase electricity for domestic purposes for use at a residential premises.
Schedule 1 [Definition amended]: retailer	The term has been amended to the definition in the ER Act, that is, an electricity entity that holds licence under Part 3 (of the ER Act) authorising the retail selling of electricity. The definition has been extended to include a person whose licence to sell electricity has been suspended or cancelled or has expired (as permitted by section 44B(5) of the ER Act). The definition also specifies, to avoid doubt, that it extends to a failed retailer. The intended effect is that provisions such as the dispute resolution arrangements in clause 11 of the Code will continue to apply, since they may remain relevant even where a retailer has failed or where its licence is suspended, cancelled or expired.
Schedule 1 [Definition added]: retailer of last resort	The new term has the meaning in the ER Act. For ease of use, a note confirms that Jacana Energy is the RoLR.
Schedule 1 [Definition added]: retailer of last resort event	The new term cross-refers to the definition in clause 9.5.1, under which a RoLR event occurs if the Commission exercises its power under the ER Act to appoint the RoLR to take over customers of a failed retailer.
Schedule 1 [Definition added]: RoLR cost recovery scheme	The new term refers to the provision in the ER Act under which the Commission may make a cost recovery scheme.
Schedule 1 [Definition added]: RoLR plan	The new term is defined as a plan made by an electricity entity to document roles, responsibilities and actions within its organisation when a RoLR event occurs.

ERS Code version 5 clause reference	Summary of change
Schedule 1 [Definition added]: RoLR transfer date	The new term refers to the provision in the ER Act under which the Commission determines the date that the RoLR appointment takes effect.
Annexure 3	Annexure 3 includes the minimum requirements for a 'customer transfer request form.' Paragraph (c) has been amended to remove the reference to a transfer as a result of a RoLR Event, since no form is required before those transfers take place.

*This clause was not included in the Commission's consultation paper, or has since been materially amended.

Indicative flow chart

The Commission notes that the RoLR scheme in its entirety is not contained solely within the ERS Code, but is provided for under various instruments which operate in parallel. In particular, the following instruments play a key role in the RoLR scheme:

- ER Act
- ER Regulations
- Electricity Retail Supply Code (version 5).

Appendix A of this Final Decision Paper includes an indicative flow chart demonstrating the RoLR process provided for under these instruments (as in force December 2024).

The indicative flow chart is for informational purposes only and reflects one possible process that could eventuate under the RoLR scheme. The indicative flow chart does not constitute a formal guidance document, nor does it derogate from or change any responsibilities under any of the legal instruments listed.

3 | Appendix A – Indicative Flow Chart

*Unless otherwise stated, UC refers to the Utilities Commission, sections (s) refer to the *Electricity Reform Act 2000*, regulations (reg) refer to the *Electricity Reform (Administration) Regulations 2000* and clauses (cl) refer to the draft version 5 of the *Electricity Retail Supply Code*.

