

APPENDIX B – SUMMARY TABLE OF PROPOSED AMENDMENTS TO THE ELECTRICITY RETAIL SUPPLY CODE

This document is a summary table to assist stakeholders interpret proposed amendments to the Electricity Retail Supply Code (ERS Code) as part of the 2024 ERS Code Review (Retailer of Last Resort (RoLR) Amendments). A marked-up version of the ERS Code is also available for stakeholder review at Appendix A. Minor formatting and drafting corrections and amendments considered to be immaterial are not included in the table below.

It is proposed that the amendments would commence 30 days after version 5 of the Code is made.

Draft version 5 ERS Code clause reference	Summary of proposed change
Foreword	The foreword would be updated to replace out-of-date references to the legislation authorising the ERS Code. A note would be added to explain that authorisation for the ERS Code moved from the regulation 2A of the <i>Utilities Commission Regulations 2001</i> (NT) (UC Regulations) to the <i>Electricity Reform Act 2000</i> (NT) (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 would be updated, and the description of the ERS Code from section 44B of the ER Act would be used in place of the current description taken from the UC Regulations.
Clause 1.2.1	The list of matters that the ERS code may make provision for would be extended to include those mentioned in section 44B(2) of the ER Act and regulation 17 of the <i>Electricity Reform (Administration) Regulations 2000</i> (NT) (ER Regulations).
Clause 1.2.2	The list of matters that the Commission has had regard to when making the ERS Code would be 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 Code applies to would be updated to state the Code applies to electricity entities, the system controller, the market operator (where specified), and the Commission. The update reflects 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 2.3.1	The list of matters that the Commission will have regard to when deciding whether to amend the Code would be extended to include the matters in section 44C of the ER Act.

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Clause 5 (heading)	The heading 'Metrology' would be replaced with 'Metering' to reflect the terminology used in regulation 17 of the ER Regulations.
Clause 5.1.1	Proposed clause 5.1.1 prohibits the transfer of a customer with an accumulation meter or unmetered installation. The clause would be 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 be on an interval meter.
Clause 7.2 (heading)	The heading 'Service Orders' would be replaced with 'Service Order Arrangements' to reflect the terminology used in regulation 17 of the ER Regulations.
Clause 8.2.4	Proposed clause 8.2.4 lists the only circumstances in which the network provider may reject a customer transfer request form. New paragraph (e) would allow for rejection where required by the retailer of last resort arrangements in clause 9.6. New paragraph (f) would cross refer to the requirement for refusal under the new clause 8.2.4A (below).
Clause 8.2.4A	The proposed new clause 8.2.4A would require the network provider to reject a customer transfer request for where the Commission has suspended the relevant retail licence under the ER Act, during the period of suspension. 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.
Clause 8.2.5	Proposed 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 would be added for rejection due to the RoLR arrangements or due to licence suspension.
Clause 8.2.25	Proposed clauses 8.2.22 and 8.2.23 provide for cooling off periods before customer transfers occur. Proposed 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.

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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>Proposed 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. Proposed 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 electricity pricing order made by the Minister to determine specified prices for the purposes of the RoLR arrangements or require the RoLR to submit its proposed tariffs to the Commission for approval.</p> <p>Proposed new clause 9.2 sets out the timing for the RoLR to submit its proposed tariffs for approval, if that is required by the electricity pricing order. The proposed timing is ‘as soon as reasonably practicable and in any event no later than one month after the electricity pricing order is made’. This is intended to give sufficient time for the RoLR to take into account the terms of the pricing order.</p> <p>Depending on the timing of the electricity pricing order, approval may occur after the start of the period the electricity pricing order applies to. For example, if the electricity pricing order 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, proposed clause 9.2.3 specifies that the approved tariffs apply for the period specified in the electricity pricing order, 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 electricity pricing order for the 2024-25 period, which has been issued by the Treasurer, does not include such a requirement, or any other provision for RoLR tariffs.</p>
Clause 9.3	<p>Proposed 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>

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	<p>The initial plans would be required within three months after commencement of the clause, and would require review every two years. While the proposed 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>Proposed 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>Proposed 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>The proposed clause would also require 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>Proposed new clause 9.6.2 provides for transfers where a RoLR is appointed. The clause would require 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> <p>Proposed 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>

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Clause 9.6.4	<p>Proposed new clause 9.6.4 requires the market operator to ensure that settlements made under the System Control Technical Code 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 9.7.1	<p>Section 44H(1) of the ER Act allows the Commission to direct that the failed retailer to provide information about its customers to the RoLR. The information is listed in regulation 21A of the ER Regulations.</p> <p>To enable the Commission to monitor compliance and the operation of the RoLR scheme, proposed 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>Proposed new clauses 9.7.2 and 9.7.3 set out the obligations of the RoLR to communicate with customers about its appointment.</p> <p>The proposed provisions require the RoLR, within three business days, to publish information on its website about the RoLR event and its terms, conditions and tariffs on which it will be selling electricity to customers of the failed retailer.</p> <p>The RoLR would 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.</p>
Clause 9.8.1	<p>Proposed 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 proposed new clause 9.8.3 (below).</p>
Clause 9.8.2 to 9.8.7	<p>Proposed new clauses 9.8.2 to 9.8.7 deal with the obligations of a failed retailer towards its former customers. Several of the obligations are only enlivened if the Commission gives a notice to the failed retailer. This is intended</p>

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	<p>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 9.8.2, if enlivened, would require the failed retailer to publish notice of the event on its website and to direct customers to the website and contact details of the RoLR.</p> <p>Clause 9.8.3, if enlivened, would require the failed retailer to write to its former customers with information about the event and also inform 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. Clause 9.8.4 would allow the information to be provided as an insert to the customer’s final bill.</p> <p>Clause 9.8.5, if enlivened, would require 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 9.8.6, if enlivened, would require 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.</p> <p>Clause 9.8.7 would require 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.</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>Proposed new clause 9.9 in the ERS Code sets up the process for the RoLR to apply to the Commission with a request for a cost recovery scheme. The request must include information relating to any claim for costs from an insolvency official of a failed retailer.</p> <p>The provision would require the application to be made within six months of the appointment of the RoLR and to contain information specified in the provision, or requested by the Commission, to enable the Commission to assess the claims for costs and what form the cost recovery scheme should take.</p> <p>The proposed provision allows the Commission to consult before making the cost recovery scheme.</p>

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Clause 9.10	The Commission may, in appropriate circumstances, assess and report on the operation of the RoLR arrangement. Proposed 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 it is proposed this exception be extended to deemed RoLR contracts.
Annexure 3	Annexure 3 has the minimum requirements for a ‘customer transfer request form.’ It is proposed paragraph (c) be amended to remove the reference to a transfer as a result of a RoLR Event, since no form would be required before those transfers take place.

Schedule 1 of version 5 of the ERS Code contains the defined terms and interpretation principles applicable to the code. Terms would be amended or added as explained below.

Definition	Summary of proposed change
Added: deemed RoLR contract	The new term refers to the contract put in place by section 44F(a) of the ER Act.
Added: electricity pricing order	The new term would have the meaning in the ER Act, that is, an order made by the Minister regulating prices for the sale of electricity to customers of a class prescribed by regulation.
Amended: erroneous transfer	The term would be amended to exclude a transfer required under clause 9.6 due to the occurrence of the RoLR event.
Added: failed retailer	The new term would have the meaning in the ER Act, that is, an electricity retailer in respect of which the Utilities Commission has determined under section 44D to appoint the RoLR to sell electricity to that retailer’s customers.

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Added: insolvency official	The term ‘insolvency official’ is defined in the ER Act, but in the ERS Code, the term would be used to refer to the particular insolvency official appointed to a failed retailer.
Amended: Jacana Energy	The term would be amended to refer to ‘the RetailCorp as defined in section 3 of the <i>Power Retail Corporation Act 2014 (NT)</i> ’, consistent with the definition of ‘RoLR’ in the ER Act.
Amended: previous retailer	The term would be amended to refer to the retailer that supplied the customer before the ‘transfer date’ (instead of ‘transfer time’).
Amended: residential customer	The term would have 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.
Amended: retailer	<p>The term would have 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 would be extended to include a person whose licence to sell electricity has been suspended or cancelled or has expired (as permitted by section 44B(4) of the ER Act). The definition would also specify, to avoid doubt, that it extends to a failed retailer.</p> <p>The intended effect is that provisions such as the dispute resolution arrangements in clause 11 of the Code will continue to apply, since they will remain relevant even where a retailer has failed or where its licence is suspended, cancelled or expired.</p>
Added: RoLR	The new term would have the meaning in the ER Act. For ease of use, a note would confirm that Jacana Energy is the RoLR.
Added: RoLR event	The new term would cross refer 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.
Added: RoLR cost recovery scheme	The new term would refer to the provision in the ER Act under which the Commission may make a cost recovery scheme.
Added: RoLR plan	The new term would be defined as ‘a plan made by an electricity entity to document roles, responsibilities and actions within its organisation when a RoLR event occurs.’

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Added: RoLR transfer date	The new term would refer to the provision in the ER Act under which the Commission determines the date that the RoLR appointment takes effect.