



# Electricity industry RoLR exercise report

July 2015

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# 1 Background

## 1.1 National Energy Retail Law RoLR provisions

Under the National Energy Retail Law, the Australian Energy Regulator (AER) oversees the national Retailer of Last Resort (RoLR) scheme. The scheme is designed to ensure that in the event of retailer failure, customers continue to receive electricity and/or gas supply. The AER must publish RoLR guidelines and a RoLR Plan, appoint default RoLRs, maintain and publish a register of RoLRs, appoint designated RoLRs for specific RoLR events and make RoLR cost recovery scheme determinations.

The AER's RoLR plan provides for regular exercises to be carried out by the participants in the plan<sup>1</sup>. The AER must publish a report on the conduct of RoLR exercises.<sup>2</sup>

## 1.2 Participants in the electricity industry RoLR exercise

On 17 June 2015, the AER conducted a RoLR exercise for electricity industry RoLR plan participants. The participants included retailers registered as RoLRs for electricity customers, energy departments of participating jurisdictions, electricity distributors, the Australian Energy Market Operator (AEMO) and energy ombudsman schemes. Queensland participants took part in the exercise, in preparation for Queensland's commencement of the Retail Law on 1 July 2015. While participants based solely in Victoria are not covered by the Retail Law, some Victorian electricity distribution businesses chose to take part. Representatives of the Essential Services Commission of Victoria and the Australian Energy Market Commission also participated.

Participants were not required to attend at AER offices, but remained in their usual place of business, as they would in a RoLR event. The exercise was conducted primarily through emails from and to the AER's RoLR mailbox, [AERRoLR@aer.gov.au](mailto:AERRoLR@aer.gov.au), with follow up phone calls where necessary.

## 1.3 Purpose of the electricity industry RoLR exercise

This report sets out the conduct and outcomes of the exercise. The exercise familiarised participants with the communication flows and RoLR documentation that would be used in an electricity RoLR event, to:

- assist RoLR plan participants to better undertake their responsibilities during a RoLR event
- remind RoLR plan participants of their RoLR scheme obligations
- clarify and seek feedback on the procedures that would be followed in a retailer failure event

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<sup>1</sup> Section 162(2)(b) of the National Energy Retail Law.

<sup>2</sup> Section 163(a) of the National Energy Retail Law.

- clarify and seek feedback on the documentation that would be used in a retailer failure event.

Participants in the exercise were requested to provide feedback to the AER by 24 June 2015. During and following the exercise, participants raised a number of issues and feedback on various aspects of the exercise. This feedback, and the AER's response, is discussed later in this report.

## 1.4 Scenario for the electricity industry RoLR exercise

The scenario for the exercise involved the failure of a hypothetical second tier electricity retailer, 'Infinite Electricity', which had customers in all National Electricity Market (NEM) jurisdictions. Its national market share averaged just under 5 per cent. The failed retailer held a national retailer authorisation and a Victorian electricity retail licence.

In the scenario, AEMO issued a call notice following a breach of Infinite Electricity's trading limit, followed by a default notice and subsequently a suspension notice. The AER then issued a RoLR notice.

The exercise addressed:

- the payment default procedure under the National Electricity Rules where a retailer fails to meet a call notice.
- the AER's contingency powers
- the process for appointing additional RoLRs as designated RoLRs
- the key decision making points and communication flows in the lead up to and after a RoLR event
- the content of a RoLR notice.

While the payment default procedure under the Electricity Rules may not allow sufficient time to appoint additional RoLRs with non-firm offers as designated RoLRs, the AER decided to include that process in the exercise. Additional RoLRs with non-firm offers were allowed a very short timeframe to decide whether to firm up their offers.

Table 1.1 sets out the hypothetical failed retailer's customer base.

**Table 1.1**

Failed retailer customer base			
ACT	140 small customers	138 large customers	ACT load is included in NSW load below
NSW	9275 small customers	1967 large customers; 1 large customer directly connected to the electricity	4.6 per cent of load

		transmission network	
Queensland	104 small customers	1417 large customers; 2 large customers directly connected to the electricity transmission network	8.3 per cent of load
South Australia	245 small customers	175 large customers	1.5 per cent of load
Tasmania	181 small customers	335 large customers; 1 large customer directly connected to the electricity transmission network	4.5 per cent of load
Victoria	2505 small customers	1426 large customers	4.8 per cent of load

## 1.5 Sequence of the exercise

The sequence of the exercise was as follows:

### 1. Issue of call notice by AEMO

Infinite Electricity breached its trading limit, and was issued with a call notice by AEMO on Monday 15 June 2015.

### 2. Issue of default notice by AEMO

Infinite Electricity failed to respond to the call notice, and was subsequently issued with a default notice by AEMO on Tuesday 16 June 2015.

### 3. Issue of suspension notice by AEMO

Infinite Electricity was unable to rectify the default set out in the default notice, and on Wednesday 17 June 2015, AEMO issued a suspension notice to it. Suspension from the NEM took effect at midnight of that day.

### 4. Issue of RoLR notice by the AER

Following suspension of Infinite Electricity, the AER issued a RoLR notice on Thursday 18 June 2015, as well as associated documents.

## 2 Communications and documentation covered by the exercise

Some communications by the AER are mandatory under the Retail Law and the AER's RoLR Plan. Other communications are discretionary and will depend on the circumstances of a particular retailer failure. The exercise addressed the following communications that the AER would generally provide during an electricity RoLR event:

### **Tuesday 16 June 2015, following a retailer's failure to respond to a call notice by 11am**

1. Advice to Ministers (with energy department RoLR contacts participating in lieu of Ministers) and AEMO that it has formed a 'reason to believe' under section 130 of the Retail Law that there is a risk of a retailer failure, following the failure of an electricity retailer to meet the requirements of a call notice. Under the RoLR Plan, the AER will also notify energy departments of the 'reason to believe'.

### **Tuesday 16 June 2015, following AEMO's issue of a default notice at 2pm**

2. Advice to Ministers that AEMO has issued an electricity retailer with a default notice.
3. Advice to a retailer registered as an additional RoLR with non-firm offers that there is a risk of a retailer failure. This followed the issue of the default notice, with the provision of customer information within a range (to help prevent identification of the retailer in distress). The AER sought the registered RoLR's advice as to whether it was willing to be designated as a RoLR for any customers of the failed retailer. The email also addressed confidentiality obligations under s. 131 of the Retail Law.
4. Notification in accordance with s. 132(4) of the Retail Law to a retailer registered as an additional RoLR with firm offers that there is a risk of a retailer failure and that it would be appointed as a designated RoLR in accordance with the terms of its firm offer should a RoLR event occur. This followed the issue of the default notice. This email also addressed confidentiality obligations under s. 131 of the Retail Law.
5. Notification to retailers registered as default RoLRs that there is a risk of a retailer failure following the issue of a default notice. This email also addressed confidentiality obligations under s. 131 of the Retail Law.

### **Wednesday 17 June 2015, following the retailer's failure to respond to the default notice by 1pm**

6. Advice to Ministers and energy departments that Infinite Electricity has failed to meet the requirements of the default notice, and that AEMO may now issue a suspension notice.
7. Provision of appointment notices under s. 132(2) of the Retail Law to designated RoLRs.
8. Provision of appointment notices to AEMO in accordance with the requirement in s. 132(2) of the Retail Law.
9. Advice to electricity distributors that there is a risk of a retailer failure, advising which retailers will be appointed as designated RoLRs if a RoLR event occurs. This followed

the issue of the default notice. Under the RoLR Plan, the AER may inform distributors and certain other persons of the designated RoLRs prior to the RoLR event. This email also addressed confidentiality obligations under s. 131 of the Retail Law.

### **Wednesday 17 June 2015, following AEMO's issue of a suspension notice that afternoon**

10. Advice to Ministers and energy departments that AEMO has issued a suspension notice to Infinite Electricity, and that suspension will be effective from 12:00am Thursday 18 June 2015. Some information on affected customer numbers and load was provided.
11. Advice to relevant RoLR Plan participants (retailers registered as RoLRs for electricity customers, electricity distributors and energy ombudsman schemes) that AEMO has issued a suspension notice to Infinite Electricity, and that suspension will be effective from 12:00am Thursday 18 June 2015. Some information on affected customer numbers and load was provided.
12. Provision to RoLRs of a summary table of Infinite Electricity's approximate load over the last 7 days, to assist them in preparing for the transfer of customers. This table also included RoLR appointments for each electricity distribution system and for affected directly connected electricity transmission customers.

### **Thursday 18 June 2015, following the suspension of Infinite Electricity from the NEM**

13. Provision to Ministers and energy Ombudsmen of a copy of the RoLR notice, a RoLR event questions and answers factsheet, and some background information on the RoLR event.
14. Provision to electricity retailers and distributors of a copy of the RoLR notice, and a RoLR event questions and answers factsheet.

### **At the conclusion of the exercise**

15. A final email seeking feedback on the communication flows and RoLR documents for clarity and comprehensiveness.

### 3 Feedback received from RoLR Plan participants on the exercise

The AER received feedback on the exercise and documents from each category of RoLR Plan participant: energy departments, energy Ombudsmen, registered RoLRs, electricity distributors and AEMO. The key feedback on the RoLR exercise was:

Participant feedback	AER Response
Background information on the RoLR framework and the AER's proposed media messaging should be provided to Ministers prior to the retailer's suspension.	The AER will provide the customer Question and Answer factsheet and background information to Ministers and energy departments prior to the RoLR event. This information may be incomplete, as designated RoLRs may not be known at the time the AER forms a 'reason to believe'.
Further information should be included in the customer Question and Answer factsheets addressing matters such as transfers in progress, energy debts, what happens if the failed retailer is insolvent, payment plans, reference material for large customers, etc.	The AER is reviewing its template Question and Answer factsheet to ensure it addresses the issues raised by RoLR plan participants.
Where a failed retailer has multiple participant identifications, the AER's RoLR notification should list all participant identifications held by the failed retailer and customer numbers by participant identification.	The AER's RoLR notice will list all affected participant identifications and the AER will endeavour to provide customer numbers by participant identification.
Clarification is needed on whether the National Meter Identifier (NMI) class (small or large) in the RoLR notice is the Market Settlement and Transfer Solution classification of NMI or the National Energy Customer	The AER will clarify in the RoLR notice and other RoLR documentation that the NMI classification being used is the Market Settlement and Transfer Solution classification of small/large customers rather than the

<p>Framework classification of NMI. It may be useful to footnote which definition is being used.</p>	<p>definition of small and large customers in the Retail Law.<sup>3</sup></p>
<p>The interaction between the Retail Law and the Victorian retail framework needs to be clearer. The AER should provide information on the Victorian RoLR arrangements in its RoLR notice, and should advise participants of the impact of the RoLR event on Victoria.</p>	<p>The AER will raise the issue of how to streamline communications to industry in RoLR events affecting both Retail Law jurisdictions and Victoria with the Essential Services Commission of Victoria. When circulating the RoLR notice to RoLR plan participants, the AER will provide information targeted to Victorian participants in the covering email.</p>
<p>A national RoLR exercise is needed that involves Victorian customers, to test the multiple notifications and customer allocations being implemented under the national RoLR provisions and the Victorian RoLR framework.</p>	<p>The AER supports holding NEM-wide RoLR exercises and will raise this issue with the Essential Services Commission of Victoria.</p>
<p>Improvements are needed to the way that information for affected Victorian customers is presented, and the way that information about Victorian customers is presented.</p>	<p>The AER will revise its RoLR templates to improve the manner in which information for and about affected Victorian customers is presented.</p>
<p>The AER and AEMO should hold a complete 'end to end' RoLR test exercise.</p>	<p>Both the AER and AEMO support having an 'end to end' RoLR test exercise for the next electricity industry RoLR exercise. An 'end to end' test exercise would address both the lead up to the RoLR event, and participants' roles under the NEM RoLR Processes and RoLR plan following a RoLR event.</p>

<sup>3</sup> This is consistent with section 4.1 of the AER's Retailer of Last Resort Guidelines. The "NMI classification codes" are set out in section 4.9(f) of the CATS Procedures, with thresholds for small and large varying across jurisdictions between 100 MWh and 160MWh per annum.

Section 131 of the Retail Law states that retailers must not disclose any notice provided to them under section 130 of the Retail Law of the risk of a RoLR event to their 'marketing staff'. However, retailers depend on their marketing staff to manage RoLR related communications with customers, and marketing and regulatory staff may be functionally co-located within retailers.

The AER understands that this provision is directed to ensuring that retailers do not engage in marketing directly to customers of a retailer that they know is in financial distress, where their knowledge was obtained from confidential information provided by the AER under s. 130 of the Retail Law. Information provided under s. 130 should only be shared within a business on a 'need to know' basis for the purposes of preparing for a potential RoLR event. The AER recognises that marketing staff play a key role in RoLR communications and will raise this issue with the Retail Policy Working Group.

RoLRs require customer and load information by distribution area rather than by transmission node identifier.

The AER and AEMO are working to develop capability to provide load data and customer number data by distribution area rather than by transmission node identifier, and are confident this should be feasible.

At the time that the AER advises participants that AEMO has issued a suspension notice, the AER would ideally provide RoLRs with the number of customers which they will be allocated in each jurisdiction. If the AER provides the total number of customers affected by the RoLR event, this should be made clear upfront.

The AER will adjust its processes and templates to reflect this feedback.

The AER should endeavour to provide RoLRs with a load table at the time that the AER advises that AEMO has issued a suspension notice

The AER will endeavour to provide RoLRs with a load table as soon as possible after AEMO has issued a suspension notice. Any load

to the failed retailer. The AER should consider whether each RoLR only receives information that pertains to them specifically.

information would be limited to areas where the retailer is a designated RoLR. However, it will not always be feasible to provide this information to RoLRs. Where RoLRs are also local area retailers, they will already possess some load information through the settlement process.

Can RoLRs vary the contact number(s) listed for them in the customer Question and Answer factsheet?

Yes. If RoLRs establish a dedicated number for customers to call, they should advise this to the AER through the AER RoLR mailbox, [AERRoLR@aer.gov.au](mailto:AERRoLR@aer.gov.au)

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### 3.1 AER next steps

The AER is revising its RoLR processes and templates to address the feedback received from RoLR plan participants. The AER will work with AEMO to develop capability to provide load data and customer number data by distribution area rather than by transmission node identifier.

The AER is also preparing for a gas industry RoLR exercise which is scheduled for Quarter 4 of 2015.

### 3.2 Further electricity RoLR information

National Energy Retail Law:

[http://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ENERGY%20RETAIL%20LAW%20\(SOUTH%20AUSTRALIA\)%20ACT%202011.aspx](http://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ENERGY%20RETAIL%20LAW%20(SOUTH%20AUSTRALIA)%20ACT%202011.aspx)

AER RoLR Guidelines and RoLR plan: <http://www.aer.gov.au/node/1189>,  
<http://www.aer.gov.au/node/32901>

AER RoLR email contact: [AERRoLR@aer.gov.au](mailto:AERRoLR@aer.gov.au)

AEMO NEM RoLR Policies and Procedures:

<http://www.aemo.com.au/Electricity/Policies-and-Procedures/B2B/NEM-RoLR-Processes>