

Issues paper

RoLR plan development

November 2010

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Shortened forms

ACCC	Australian Competition and Consumer Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ESCV	Essential Services Commission of Victoria
MCE	Ministerial Council on Energy
NECF	National Energy Customer Framework
NEM	National Electricity Market
Retail Law	National Energy Retail Law
Retail Rules	National Energy Retail Rules
RoLR	Retailer of Last Resort

1 Introduction

The AER is an independent statutory authority that is administratively part of the Australian Competition and Consumer Commission (ACCC). It monitors the wholesale electricity and gas markets and is responsible for compliance with and enforcement of the National Electricity Law and Rules and the National Gas Law and Rules. It also regulates electricity networks in the National Electricity Market (NEM) and gas pipelines in jurisdictions other than Western Australia.

The AER will also assume responsibility for the enforcement of the National Energy Retail Law (Retail Law) and National Energy Retail Rules (Retail Rules) under the National Energy Customer Framework (NECF). This includes responsibility for the regulation of electricity and gas retail markets (other than retail pricing) in participating states and territories. The AER will not have this role in Western Australia, the retail electricity market in the Northern Territory and potentially some retail gas markets.

The NECF makes provision for a national Retailer of Last Resort (RoLR) scheme to provide common arrangements across jurisdictions in the event of retailer failure. The RoLR scheme is intended to ensure that electricity and gas customers continue to receive supply if their retailer fails. Under the scheme customers of the failed retailer are automatically transferred to a RoLR, at least in the short-term. Retailer failure under the Retail Law can be triggered in a number of ways including market suspension by the Australian Energy Market Operator (AEMO) or revocation of the retailer's authorisation by the AER.

The Retail Law requires the AER to implement the national RoLR scheme, including registering and appointing retailers as RoLRs, determining cost recovery arrangements and developing RoLR plans.

There must be one default RoLR per connection point in electricity, and per distribution system in gas. The AER may also register one or more additional RoLRs per electricity connection point or gas distribution system. In the event of retailer failure, customers will be transferred to one or more designated RoLRs (a designated RoLR is a retailer selected by the AER to be the RoLR for specific customers for a RoLR event) via AEMO's systems and in accordance with AEMO's RoLR procedures.

The RoLR plan will set out the communication processes to be followed by the designated RoLRs, the failed retailer, customers, the AER, AEMO, distributors and government during a RoLR event. The purpose of the RoLR plan is to provide for clear and timely communication between these parties to ensure that a RoLR event runs as smoothly as possible. The communications specified in the RoLR plan will be based on the requirements of the Retail Law and communications that the AER must make or receive to meet its RoLR obligations. The AER anticipates that other parties will develop their own communication strategies for RoLR events.

The RoLR plan must also provide for the conduct of regular, simulated RoLR exercises. The purpose of the RoLR exercises is to ensure the readiness of market participants in the event of retailer failure

This issues paper considers the development of the RoLR plan and seeks stakeholder views on the selection of RoLR plan participants, the conduct of RoLR exercises and the development of communication arrangements for a RoLR event. The AER will also release separate discussion papers on the RoLR registration and appointment processes and RoLR cost recovery.

In developing this paper, the AER has considered the requirements of the RoLR provisions of the Retail Law, existing State and Territory RoLR plans and RoLR-related regulatory instruments.

2 Public consultation process

2.1 How to make submissions to this issues paper

The AER invites comments on this issues paper. Submissions can be sent electronically to AERInquiry@aer.gov.au with the title “*Submissions re: RoLR plans - attention Sarah McDowell*” or by mail to:

General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

The closing date for submissions is 22 December 2010.

The AER prefers that all submissions be publicly available to facilitate an informed and transparent process. Submissions will therefore be treated as public documents unless otherwise requested, and will be placed on the AER’s website (www.aer.gov.au). Parties wishing to submit confidential information are requested to:

- clearly identify the information that is subject of the confidentiality claim
- provide a non-confidential version of the submission, in addition to the confidential one.

The AER does not generally accept blanket claims for confidentiality over the entirety of the information provided and such claims should not be made unless all information is truly regarded as confidential. The identified information should genuinely be of a confidential nature and not otherwise publicly available.

In addition to this, parties must identify the specific documents or relevant parts of those documents which contain confidential information. The AER does not accept documents or parts of documents which are redacted or ‘blacked out’.

For further information regarding the AER’s use and disclosure of information provided to us, please refer to the *ACCC–AER information policy: the Collection, Use and Disclosure of Information*, which is available on our website.

2.2 Next steps

Following the receipt of submissions to this issues paper, the AER will commence drafting a RoLR plan template. It is expected that this template will be released for consultation in early 2011.

The AER’s intention is that the template would apply to all jurisdictions. The AER will consult with the RoLR plan participants of participating states and territories to ensure jurisdictional-specific issues are addressed by the plan.

2.3 Registration for stakeholder forum

The AER is holding a half-day stakeholder forum at 2pm on 1 December 2010 to discuss the issues raised in this paper, and the RoLR appointment and cost recovery papers. The Melbourne-based forum will have video conference links to Canberra, Brisbane, Adelaide, Sydney and Hobart.

To register your attendance at one of the forums, please send an email to AERInquiry@aer.gov.au by 29 November 2010. The subject of the email should state *'Registration for the AER's National RoLR Scheme Forum - attention Dominique Chivers.'*

3 Background

3.1 Regulatory framework

The Retail Law requires the AER, in consultation with AEMO and Ministers of participating jurisdictions, to develop and make RoLR plans. Section 162 of the Retail Law defines a RoLR plan as a plan for the procedures to be followed by the participants in a RoLR event, including direct communication with customers of a failed retailer. Regular test exercises are also required to be carried out by the participants in the plan¹.

RoLR plan participants are the parties that would be expected to play a role in a RoLR event. Each participant must use its best endeavours to develop, maintain and comply with the RoLR plan². The Retail Law requires these participants to include:

- the AER
- AEMO
- the registered RoLR/s nominated by the AER
- distributor/s nominated by the AER
- other parties nominated by the AER.

The RoLR plan must be published on the AER website. The AER also needs to ensure that the RoLR plan is reviewed at such times as it considers appropriate and kept up to date in accordance with the review outcomes.

3.2 Development approach

State and Territory-based approach

Recognising the different market circumstances and levels of competition across the states and territories, the NECF has been developed as an ‘end point’ framework that jurisdictions can transition to over time. The timing and manner of transition to the new arrangements are matters for each individual state and territory, with jurisdictions able to transition progressively upon the passage of the Retail Law.

Jurisdictions may transition on an incremental basis, that is, to apply parts of the NECF at different times. Jurisdictions will also be able to apply parts of the NECF at different times. At the time of writing, no firm implementation decisions had been made. Although the new RoLR arrangements will apply nationally, the AER will implement them progressively if, and as, jurisdictions apply the RoLR scheme. The AER will focus initially on those jurisdictions with the most immediate needs.

¹ Subsection 162(2)(b) of the Retail Law.

² Section 162(6) of the Retail Law.

Template for AER RoLR plan

The AER has reviewed RoLR communication strategies and protocols currently in place in states/territories and considers the RoLR plan developed by the Essential Services Commission of Victoria's (ESCV) to be the most comprehensive. The AER therefore proposes to use the ESCV's RoLR manual as a template for the RoLR plan.

The ESCV undertook extensive work with a steering committee (comprising of industry and Government representatives) to develop its RoLR manual for the Victorian electricity and gas markets. The AER will draw on this work, particularly in relation to the extensive mapping of the sequence of communications in the lead-up to a RoLR event. However, the AER's RoLR plan will need to reflect the following:

- differences between states/territories
- key differences between the Victorian regulatory framework and the NECF: for instance, RoLR triggers
- AEMO has amended its RoLR processes for the Victorian gas and national electricity market since the ESCV's RoLR plan was finalised in 2009
- the Jackgreen RoLR event in December 2009 highlighted deficiencies in the timely transfer and quality of customer data and confusion over who should communicate key advice to affected customers³.

Consistency with RoLR procedures

The Retail Law requires the RoLR plan to be consistent with the RoLR procedures⁴. These procedures are made by AEMO to address the operation or implementation of the RoLR scheme and may include, for example, the transfer of customers from the failed retailer to designated RoLRs and the acceleration or cancellation of open transactions.

Although the RoLR plan and the RoLR procedures regulate different aspects of the RoLR process, there are commonalities between the two, particularly in the area of customer data transfer. For example, the RoLR plan might specify how and when AEMO (and perhaps the RoLR and failed retailer) should notify the AER about the status of customer transfers. The timing of these notifications will therefore need to be consistent with the timeframes for customer data provision specified in the RoLR procedures.

The AER and AEMO will work together to ensure the RoLR plan and RoLR procedures are consistent. In particular, AEMO will be able to identify any potential areas of overlap between the two regulatory instruments when the RoLR plan is developed.

³ RoLR Event Forum, AEMO, 17 March 2010.

⁴ Section 162(3) of the Retail Law.

Issues for consideration

- Q 1. Is it appropriate that the AER draw on ESCV's existing RoLR plan as the starting point for the AER's RoLR plan? Please set out your reasons why / why not.
- Q 2. Are there any other matters which should be included in or excluded from the AER's RoLR plan which are not/are presently included in the present Victorian RoLR plan?
- Q 3. Are there areas of commonality between the RoLR plan and RoLR procedures that need to be considered in the development of the RoLR plan? And if so, what are they?

4 RoLR plan participants

The Retail Law requires the AER to develop and maintain RoLR plans in consultation with Ministers of participating jurisdictions and RoLR plan participants.

The AER and AEMO are defined as RoLR plan participants under the Retail Law. The AER is given discretion under the Retail Law to nominate registered RoLRs and distributors as RoLR plan participants. The AER may also nominate other parties as RoLR plan participants.

The AER proposes that all retailers in the participating jurisdiction, and not just the registered RoLRs, should be included as RoLR plan participants. This appears appropriate since every retailer could potentially fail and the actions of a failing retailer at the time of a RoLR event will be critical to event outcomes. For example, the RoLR plan may require an exiting retailer to provide the AER and designated RoLRs with certain information. Therefore, it is the AER's initial view that all retailers should be made aware of RoLR processes under the RoLR plan by requiring them to participate in the development of the RoLR plan and to follow the RoLR processes developed.

The AER also considers that the state or territory ombudsmen should be RoLR plan participants. As demonstrated during the two RoLR events that have occurred in the NEM to date, ombudsmen play a crucial role in resolving customer complaints against the failed retailer and in directing customers to the appropriate contact.

The AER is interested to hear stakeholders' views about the inclusion of all retailers in the participating jurisdiction and the ombudsmen as RoLR plan participants. The AER would also like to hear stakeholders' views on whether there are any other parties that should be nominated as plan participants. In making recommendations, stakeholders need to be cognisant that the role of the proposed plan participant would go beyond providing input into the development of the RoLR plan—potentially they would play a prominent and vital role during the conduct of RoLR exercises and during an actual RoLR event.

Issues for consideration

- Q 4. Should all retailers in the participating jurisdiction be included as RoLR plan participants? Please set out your reasons why / why not?
- Q 5. Do you agree with ombudsmen being included as RoLR plan participants? Please set out your reasons why / why not?
- Q 6. Are there any other parties that should be included by the AER as RoLR plan participants? If so, who?

5 Regular customer data transfers

After a RoLR event occurs customers are transferred to their designated RoLR through AEMO's market systems. Communication from the designated RoLRs to these customers will commence when the RoLR has a complete customer data set from the failed retailer.

Customer details may be transferred from the failed retailer/insolvency official to the designated RoLR(s) through AEMO's RoLR procedures or at the AER's request (through the RoLR notice or RoLR regulatory information notices)⁵. The AER acknowledges that obtaining a failed retailer's customer data at the time of a RoLR event may be problematic. Therefore, to enable the designated RoLRs to establish customer accounts as quickly as possible it appears advisable for there to be a back-up set of customer data that the RoLRs can access in the event of retailer failure.

Some jurisdictions currently make provision for the regular transfer of customer data to a data custodian, being either AEMO or the distributor. In Victoria, NSW and the ACT, the Retail Market procedures require second-tier gas retailers to provide their customer data to AEMO on a monthly basis. In Victoria, the ESCV's RoLR plan requires second-tier electricity retailers to transfer a copy of their data set to the relevant distributor once a month. Upon a RoLR event, these data custodians are required to provide the relevant customer data sets to the RoLRs.

Another alternative customer data source is the distributor. Customer data sets held by distributors can provide designated RoLRs with enough information to establish customer accounts. In the electricity market, the NEM RoLR processes require distributors to provide their data sets to the designated RoLR(s) within 4 business days of receiving the list of relevant National Metering Identifiers (NMIs) from AEMO. However, these data sets do not indicate whether customers are participating in hardship programs or have instalment arrangements. The AER seeks stakeholder views on whether current arrangements provide adequate back-up for customer data for RoLRs to use in the event of retailer failure.

The AER notes that there is no provision under the national RoLR scheme for the regular transfer of customer data between retailers and a data custodian. Therefore, while other jurisdictions may have considered this matter in their RoLR plans, it is unlikely the AER will be able to do so in the context of its RoLR plan.

Issues for consideration

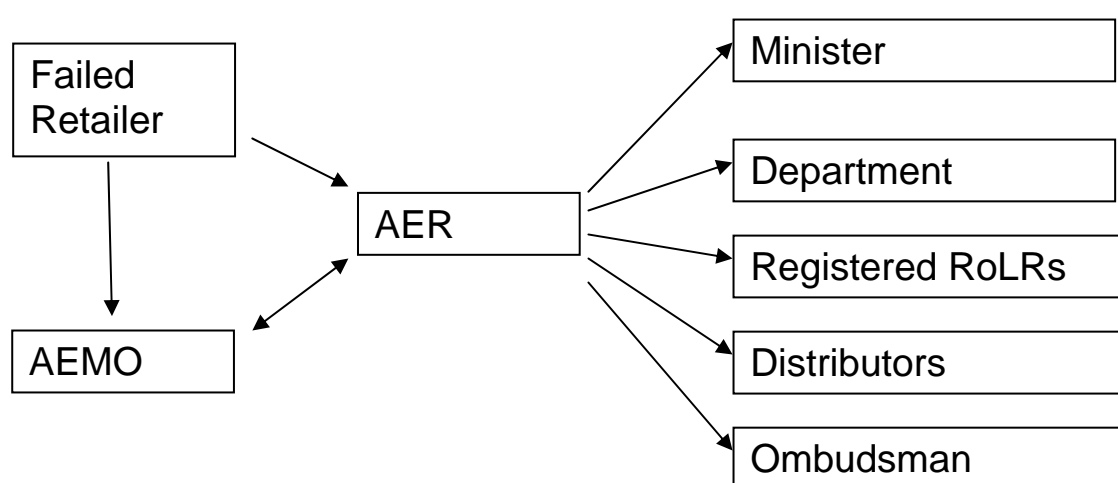
- Q 7. Should arrangements be made for the regular transfer of customer data from retailers to a data custodian? If so, who should act as the data custodian?
- Q 8. What is the appropriate mechanism to provide for the regular transfer of customer data?

⁵ Sections 149(2), 136(3) and 152(1) of the Retail Law.

6 Communication leading up to the issue of a RoLR notice

For RoLR arrangements to be invoked efficiently it is essential that key players are prepared and have the information they need to meet their obligations under the Retail Law. As noted previously, and as Diagram A shows, there are a number of players in a RoLR event. Each has a different role to play, with different communication needs and different obligations. It should be noted that these communication paths reflect the requirements of the RoLR plan. Clearly, other parties will have their own RoLR communication strategies.

Diagram A: Summary of RoLR plan communication paths in the lead-up to a RoLR event



There is also an ongoing obligation under the Retail Law for AEMO and retailers to advise the AER when they become aware of events, matters or circumstances that may or will give rise to a RoLR event or any other RoLR event (“contingency event”). The RoLR plan could therefore give guidance on how this advice should be given and strategies for how the AER should deal with such advice.

The rest of this chapter considers the various information needs and requirements of RoLR plan participants in the period leading up to a RoLR event.

Summary of proposed communications in the lead-up to a RoLR event

AEMO

AEMO currently has standing instructions with jurisdictional regulators that address communication between the two parties during a market suspension. The AER proposes to adopt a similar approach in its RoLR plan. Specifically AEMO should inform the AER when it has issued a call notice (electricity) or margin call (gas), default notice and suspension notice and if and when the registered participant has satisfied the requirements of the notice.

As noted above, AEMO is required under the Retail Law to inform the AER when it is aware of events, matters or circumstance that may or will give rise to RoLR events. It is proposed that the RoLR plan reflect this obligation and include guidance on how AEMO should give this advice and strategies for how the AER should deal with the advice.

Retailers

The Retail Law also requires retailers to inform the AER and AEMO when they are aware of events, matters or circumstances that may or will give rise to a RoLR event. The RoLR plan should address this requirement and specify the means by which retailers should inform the AER and AEMO of such events, matters or circumstances as well as address how the AER will respond to this advice.

AER

The AER needs to ensure that affected parties are prepared for a RoLR event. The AER must advise participants of the likelihood of a RoLR event and must therefore determine who it should inform and at what point it should inform them. The RoLR plan will need to consider a range of scenarios, for example issue of a notice by AEMO, market suspension, proposed revocation of authorisation by the AER.

Appendix A outlines proposed information requirements in the lead-up to a RoLR event. It outlines the information that the AER should give plan participants, as well as the information that AEMO and retailers should provide the AER in the lead-up to a RoLR event. Communications proposed for AEMO are based on the requirements of existing standing instructions between AEMO and jurisdictional regulators.

Confirmation of the AER's appointment of designated RoLRs

As noted earlier, the Retail Law provides for the appointment of default RoLRs, as well as additional RoLRs. Additional RoLRs are retailers that have made an expression of interest in being a RoLR and have been assessed by the AER as being suitable to assume such a role. Should a RoLR event occur the default RoLR is taken to be appointed unless the AER advises AEMO of the appointment of an alternative RoLR before the event occurs. The RoLR plan should therefore set out how and when the AER informs AEMO of the appointment of a designated RoLR.

The AER has commenced preliminary discussions with AEMO to consider how this appointment notification should be provided. The communication process will also be informed by the AER's RoLR appointment framework, which is addressed in a separate paper. The outcomes of these discussions will be used to inform the AER's communication approach to RoLR appointments, and will be set out in the RoLR plan.

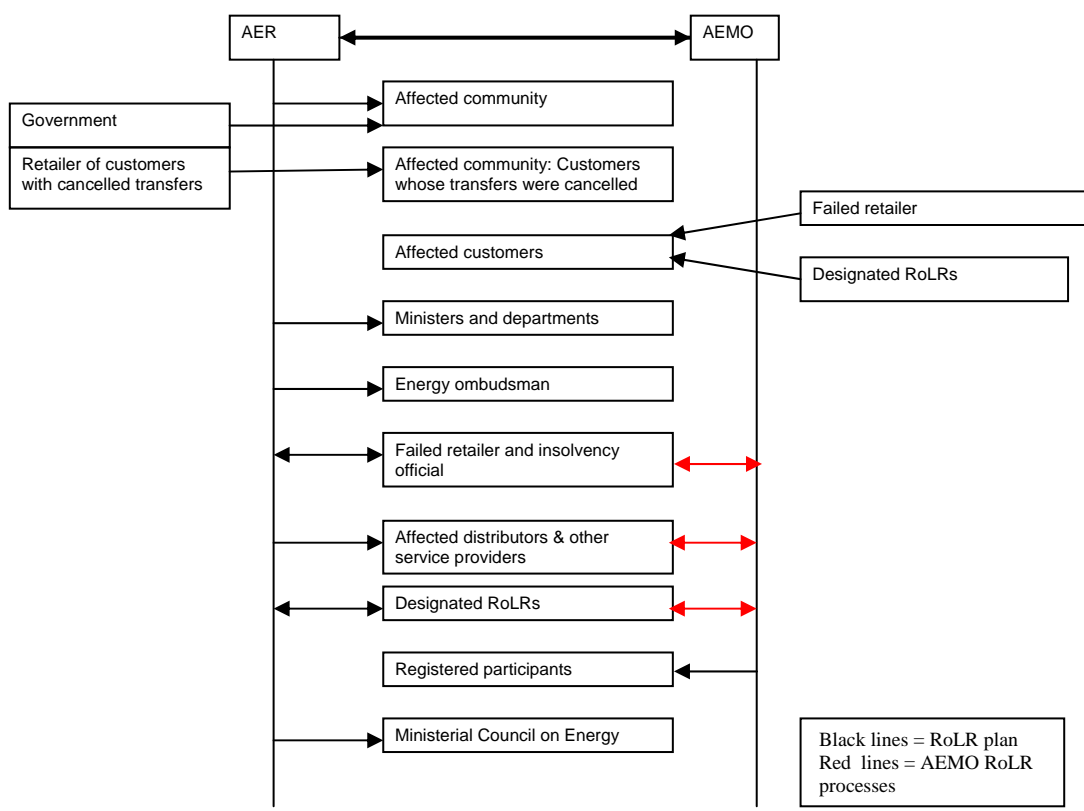
Issues for consideration

Q 9. Do stakeholders have comments on the communication strategies proposed for the lead-up to a RoLR event or the timeframes proposed in Appendix A?

7 Communication after the issue of a RoLR notice

The speed at which RoLR events occur means that affected parties must be advised of their occurrence as early in the process as possible. To date only two RoLR events have occurred in the NEM. In both cases the processes unfolded in under 48 hours and customers transferred to their respective RoLRs in a matter of hours. It is therefore essential that the affected parties, which include the community, end-use customers of the failed retailer, designated RoLRs, distributors, ombudsmen and AEMO, are made aware of their rights and obligations in an expedient manner so that they, in turn, can participate and administer the RoLR scheme in an informed and efficient manner. Diagram B provides an overview of the communication paths between the various market players in a RoLR event. It focuses on communications potentially covered by the RoLR plan or AEMO procedures, rather than all communications.

Diagram B: Overview of RoLR plan communication paths: AER, AEMO and other participants



The Retail Law requires the RoLR plan to set out the procedures to be followed by the participants in a RoLR event, including the communication that must be made to these parties, specifically:

- General details of the event to the affected community

- Details of the event and available options to affected small customers
- Details regarding energy prices, available alternative retailers and how to disconnect, if necessary, to affected large customers
- Details of the event to Ministers and departmental officers of participating jurisdictions
- Details of the event to the energy ombudsman in affected jurisdictions
- Information regarding customers' obligations to the failed retailer and any insolvency official
- Details of the event to AEMO with a view to ensuring resources are available to carry out customer transfers
- Details of the event and information regarding customers' obligations with affected distributors
- Details of the event and information regarding customers' obligations to designated RoLRs

This chapter considers how the RoLR plan will address these requirements and further, whether other communication strategies need to be developed to ensure RoLR arrangements are invoked quickly and efficiently. Details of the proposed communication requirements per affected party are provided in Appendix B.

RoLR notice

A key component of the RoLR communication process is the RoLR notice. The RoLR notice is a regulatory instrument that the AER must issue as soon as practicable after a RoLR event occurs. Its function is to confirm that a RoLR event has occurred and outline any requirements that participants must meet. The RoLR notice must specify the:

- failed retailer
- designated RoLR(s)
- the allocation of each RoLR (if multiple RoLRs are appointed) to particular customers or customer classes
- customer transfer date
- endorsement revoking the failed retailer's authorisation (if necessary)
- any other information considered desirable or necessary by the AER.

The RoLR notice will be formally given to the following parties:

- failed retailer and insolvency official (if any)
- AEMO
- designated RoLR(s)
- distributors
- Ministers in relevant jurisdictions
- whoever is deemed appropriate.

The Retail Law requires the notice to be published on the AER website and on the AEMO website. AEMO is also required to provide copies of the notice to all participants registered under the National Gas Law and National Electricity Law. It is

also likely that the AER will send out a bulk text message to industry and government representatives, to alert them to the release of the RoLR notice.

The RoLR notice will generally be the AER's initial and primary means of communicating a RoLR event to the public. It will provide key information to affected parties about the RoLR event and may contain requirements to be complied with by the failed retailer, designated RoLR and other persons served with the notice in relation to the RoLR event and in particular, in relation to the transfer of customers⁶⁷⁸.

Communication strategies for affected parties

Affected community

The Retail Law requires the RoLR plan to set out how the affected community will be told about the general details of the event. The AER proposes that these details include information on the names of the failed retailer and the designated RoLRs, the reason for, and date of, the event as well as contact numbers and website addresses for further information.

This information will be provided through the RoLR notice, which, as noted above, will be published on the AER's and AEMO's websites. The AER's notice will be published within 24 hours of the AER giving the RoLR notice to the prescribed parties. In addition, the AER will make information available through the ACCC's call centre.

These strategies will go some way towards informing the general public about a RoLR event, but other, more proactive information strategies should also be used. This may include the circulation of a press release to media outlets and email notification to information conduits, such as financial counsellors, migrant resource centres and members of parliament. Ideally the press release would be issued within two hours of the RoLR notice being given, and the email notification to information conduits within four hours.

To ensure that members of the broader community are informed of the RoLR event the Retail Law also makes provision for the AER to place newspaper, radio or television advertisements in the areas served by the failed retailer. To reassure members of the public about their supply arrangements, the AER expects that it will undertake some form of advertising in a RoLR event. The extent to which it does will depend on the size of retailer failure. Larger retailer failures affecting thousands of customers are likely to require quick and widespread communication via radio, newspaper and possibly television. For smaller retailer failures, it would appear sufficient for notification to be limited to a newspaper advertisement in state-wide broadsheets, tabloid papers and/or local newspapers. However, an assessment of the

⁶ Section 143(3) of the Retail Law provides that a RoLR notice cannot impose requirements on a Minister of a participating jurisdiction without the consent of that Minister.

⁷ Section 136(3) of the Retail Law.

⁸ Compliance with the RoLR notice is required by subsection 143(2)(a) of the Retail This is a civil penalty provision.

most appropriate communication strategy will need to be made at the time of the RoLR event. If media provides coverage of the event as part of the general news, it may not be necessary for the AER to place advertisements.

Issues for consideration

- Q 10. Do you agree with the measures proposed to communicate with the affected community? Please set out your reasons why / why not.
- Q 11. Financial counsellors, members of parliament and migrant resource centres have been identified as potential information conduits during a RoLR event. Are there any other information conduits that may be used?
- Q 12. Is there any other information that should be provided to the wider community?

Affected small customers

The Retail Law requires the RoLR plan to set out a strategy to communicate the details of the RoLR event to the affected small customers of the failed retailer, including explaining their available options. Specifically, there must be strategies for the designated RoLR to communicate details of what happens with customers' existing contracts with the failed retailer,⁹ as well as arrangements for the sale of energy.

The AER proposes that the RoLR plan would set out what information needs to be provided to the affected small customers, as well as the minimum frequency with which the designated RoLRs must communicate with the customers.

An initial view is that there should be at least two communications from the designated RoLRs to transferred customers. The first should be a letter that sets out the tariffs, terms and conditions of the RoLR arrangements and customers' ability to transfer at any time. Further, the letter should set out what happens to the customer's existing contracts with the failed retailer, including implications for hardship arrangements, direct debit, advanced payments, security deposits and uncompleted service orders. It is considered that this information should be provided within two weeks of the transfer date.

The second communication should inform the customers of the cessation of their RoLR arrangements. Under the Retail Law small customers' RoLR arrangements end three months after the transfer date. If a customer has not chosen to switch to another retailer or enter into a market contract with the designated RoLR by the end of this period, the customer will be transferred onto the designated RoLR's standard retail contract.

⁹ Information must include details in relation to hardship arrangements, customers on life support, feed-in arrangements, termination of direct debits (including Centrepay), refunds of advance payments, security deposits, credits on prepayment meter system accounts and uncompleted service arrangements.

The AER is also of the view that the failed retailer (or insolvency official) should be required to issue at least one written communication to their former customers. This could be in the form of an insert in the final bill. This communication should include information about how customers can resolve outstanding issues with the failed retailer, such as disputed payments and direct debit arrangements.

The Retail Law also requires the failed retailer (if possible) and the designated RoLR to include a notice about the RoLR event on their websites and information about the RoLR event via their call centre¹⁰. It is considered appropriate that the RoLR plan would provide guidance to parties on what information should be included in these media.

The RoLR plan should require information to be provided to customers whose transfers to the failed retailer were cancelled as a result of the RoLR event. The AER's view is that responsibility for informing these customers should reside with the retailer the customer is returning to.

The AER will also play a major role in ensuring affected customers are aware of their rights and obligations under the RoLR scheme. The RoLR plan should set out how the AER will advise the affected customers of the general details of the event and the options available to them.

The most efficient way for the AER to communicate this information to affected customers is through its website. The information should address how customers can exercise choice within the energy retail market and provide links to price comparator websites (where available in the relevant jurisdiction) and price disclosure statements. This information should be posted on the AER's website within two business days of the RoLR event.

Finally, the AER considers that the RoLR plan should include measures to ensure that the information provided to affected customers is accessible. This may include setting out requirements to assist customers from culturally and linguistically diverse backgrounds to access the material.

Issues for consideration

Q 13. Are the information requirements that are specified for affected small customers adequate? If not, what additional information needs to be provided to the affected small customers?

Q 14. Do you agree with the proposed frequency and content of communications between the RoLR and its customers? Please set out your reasons why / why not?

¹⁰ Section 139 of the Retail Law.

- Q 15. Do you agree with the proposed information requirements for the failed retailer? Please set out your reasons why / why not?
- Q 16. Do you agree that customers who were in the process of transferring to the failed retailer should be informed of the cancellation by the retailer they are returning to or by another party? Does this represent a significant cost burden for these retailers?
- Q 17. What other measures should the RoLR plan require to ensure the accessibility of information during a RoLR event?

Affected large customers

The Retail Law requires the RoLR plan to set out how large customers will be made aware of their energy prices, available alternative retailers and how quickly they can disconnect their energy supply if necessary.

As RoLRs have direct contact with the affected customers it is appropriate that they provide the requisite information to large customers. This information should note that the terms and conditions of the large customer's RoLR contract are not prescribed by the Retail Law and Rules, but are required to be fair and reasonable. The RoLR should also advise that their supply agreement will be terminated six months after the transfer date, unless they negotiate a retail contract before then.

There is arguably more immediacy for large customers to be informed of their new RoLR arrangements since they can be exposed to the wholesale market prices under their RoLR contract. Therefore, the RoLR plan should require RoLRs to advise large customers of their RoLR arrangements as soon as possible after the occurrence of the RoLR event, for example, through a phone call.

These information requirements would not apply to large electricity customers who have previously notified AEMO (in writing) who their nominated retailer will be in a RoLR event. However, it would be expected that the large customer would be notified by its nominated RoLR of the occurrence of the RoLR event after being transferred in MSATS.

Issues for consideration

- Q 18. Are there any other information requirements for large affected customers that have not been discussed?

Ministers and departmental officers in affected jurisdictions

The RoLR plan will need to set out how Ministers and departmental officers in affected jurisdictions will be told of the general details of the RoLR event, and when they should be told.

When a RoLR event occurs, the Retail Law requires the AER to give notice to the Minister of the participating jurisdiction that the event has occurred. The AER proposes that departmental officers also receive a copy of the RoLR notice.

In the week following the RoLR event the AER expects there will be frequent telephone communication between the AER, the Minister and departmental officers. Information should be provided on a needs basis and be responsive to issues arising in relation to the RoLR event. To provide for this, it is proposed that the RoLR plan require at least three RoLR contact officers be identified per party, as well as contact numbers (business, mobile and after hours) and email addresses.

In addition to being given a RoLR notice, the AER recommends that the Minister be briefed at the end of the first week. This brief would be prepared by the AER, in conjunction with AEMO, to update the Minister and departmental officers on the event and any issues that have arisen since the transfer of customers to the RoLR. This will ensure that the Ministers and departmental officers have the requisite information to inform their constituents about the circumstances and initial outcomes of the RoLR event. A RoLR event report is also required to be provided to the Ministerial Council on Energy (MCE) within 80 business days or as agreed between the AER and MCE.

Issues for consideration

Q 19. Are there any other measures that need to be established in the RoLR plan to ensure Ministers and departmental officers are informed about the RoLR event? If so, what are they?

Energy ombudsman

The Retail Law requires the RoLR plan to set out how the relevant energy ombudsman will be informed of the general details of the RoLR event. The AER proposes that the ombudsman be given a copy of the RoLR notice, as well as a copy of the RoLR event questions and answers to assist in answering customer queries.

Given the ombudsman's role in assisting customers to resolve disputes with the failed retailer or the RoLR, the RoLR plan should establish the information processes to be adopted between the ombudsman, RoLR and failed retailer or insolvency official following a RoLR event. This may include setting out the methods of communication and the types of information that need to be provided between these parties.

Issues for consideration

Q 20. What sorts of information processes should there be between the ombudsman, RoLR and failed retailer or insolvency official following a RoLR event? What should the information include?

Failed retailer and insolvency official

The RoLR plan will need to set out how the failed retailer and insolvency official will be informed of their obligations during a RoLR event. These obligations include the provision of customer data to the designated RoLRs and the requirement to continue to deal with unresolved customer complaints and disputes. The AER proposes that the failed retailer/insolvency official should also be obliged to take steps to cancel customer direct debit authorisations and to make arrangements for refunding any prepaid charges. The AER considers that this information should be conveyed to the failed retailer and insolvency officials through the RoLR notice.

Insolvency officials are unlikely to have adequate knowledge or experience in the energy retail market so would be unaware, for example, of their obligations under the Retail Law (for example the provisions in the Retail Law displacing the application of the Corporations Law). Therefore, to assist insolvency officials understand their RoLR obligations and Retail Law more generally, it is proposed that the RoLR plan provide for the AER to prepare a detailed RoLR event factsheet for insolvency officials and to provide a briefing, if necessary.

Issues for consideration

Q 21. What other information requirements should the RoLR plan include to inform the failed retailer and/or insolvency officials about their RoLR obligations?

AEMO

The ability of AEMO's systems to facilitate customer transfers during a RoLR event is crucial for implementing the RoLR scheme. The Retail Law therefore requires the RoLR plan to specify measures to ensure AEMO has resources available to effect customer transfers. The AER is working with AEMO to ensure its systems can accommodate customer transfers for singular and multiple RoLR appointments and for different retailer failure sizes.

The AER notes that the ESCV's RoLR manual sets out a comprehensive confirmation/notification process for customer transfers, including confirmation that transfers have been completed, stopped, or accelerated. It is proposed that the RoLR plan draw on this information to establish the RoLR plan's customer transfer notification process. A copy of this information is provided at Appendix C.

Issues for consideration

Q 22. Is there any other information AEMO should provide the AER (or the AER provide AEMO) after a RoLR event?

Q 23. Are the customer notification processes set out in the ESCV's RoLR manual adequate? If not, what additions or changes should be made?

Q 24. Are there other channels of communication that the RoLR plan should specify?

Affected distributors

The RoLR plan will need to set out how the affected distributors and other service providers will be informed of the RoLR event and their RoLR-related obligations, including finalising service orders and facilitating actual meter readings where possible. The AER considers that the most efficient and effective way of passing on this information is through the RoLR notice.

Designated RoLRs

Likewise, the RoLR plan will need to set out how the designated RoLR will be informed of the RoLR event and their obligations under the RoLR scheme. These obligations will include compliance with the RoLR plan, in particular, the communication requirements relating to the affected customers. The RoLR notice is considered to be the most effective means of providing this information.

While the RoLR plan provisions of the Retail Law consider only the provision of information to the designated RoLR(s), the AER would find it useful to receive certain information from the designated RoLR(s). For example, the designated RoLR(s) could notify the AER that the failed retailer has transferred the requisite customer data to it. This information could be required under section 136(3) of the Retail Law, as a requirement of the RoLR notice.

Issues for consideration

- Q 25. In addition to the RoLR notice, by what means should the AER inform the RoLRs and distributors of their RoLR obligations?
- Q 26. Should the RoLR plan require any other information to be provided to these parties?
- Q 27. Should the RoLR plan require the designated RoLR(s) to provide any information to the AER?

8 RoLR exercises

The Retail Law requires the RoLR plan to provide for the provision of regular RoLR exercises to be held at a time considered appropriate by the AER. The purpose of RoLR exercises is to test established RoLR systems and communications processes to ensure customers are transferred from the failed retailer to the designated RoLRs with minimal disruption to markets.

The RoLR exercises can also be used to simulate the types of RoLR decisions that may need to be made by the AEMO and/or AER Boards. This may include presenting potential suspension scenarios to the AEMO Board or potential RoLR appointments and customer allocation scenarios to the AER Board.

While all RoLR plan participants are expected to participate in the RoLR exercises, the AER will take the lead in organising these exercises. However, AEMO's involvement in planning the exercises will be crucial, since AEMO provides the systems by which customers will be transferred and prescribes the procedures that provide for transfers to be undertaken.

The AER and AEMO have commenced preliminary discussions on the conduct of RoLR exercises. Once an initial approach is developed, RoLR plan participants will be invited to provide comments on the proposed approach, including any concerns about the workability and proposed timing of the RoLR exercises.

Issues for consideration

- Q 28. Are there any issues that need to be considered by AER and AEMO when it conducts its preliminary planning for the RoLR exercises?
- Q 29. How often should exercises be conducted and what form should they take (eg desk-top or system transactions)?
- Q 30. Are there particular information requirements and systems procedures that the exercises should focus on / not focus on?

9 Appendices

Appendix A – Proposed communication requirements before the issuing of a RoLR notice

Under the NECF a RoLR event can be triggered in a number of ways, for example:

- AEMO may suspend the rights of a retailer to acquire electricity or gas in a wholesale market
- The AER can revoke a retailer authorisation
- An insolvency official may be appointed to a retailer or a court order made relating to the winding up of a retailer
- Registration rights in a wholesale market might cease, for example AEMO may revoke rights
- A retailer may cease to supply customers
- Any other event or circumstance prescribed in the National Regulations.

If any of these events occur, the AER is required to issue a RoLR notice. The notice is to advise stakeholders that a RoLR event has occurred and may also require parties served, including the designated RoLRs, to comply with its requirements. The notice will also specify a transfer date for the start of the customer's new arrangements with a RoLR. Proposed communications following the issue of a RoLR notice are set out in Appendix B and in chapter 7 of this paper.

Proposed communication requirements are split into two categories below:

- General information—These information requirements apply for any of the triggers mentioned above – the emphasis here is on providing the earliest possible information to the key parties who need to make decisions in time for the RoLR notice / transfer date: i.e. AER, AEMO, designated RoLR
- Specific information—AEMO must follow a legislated process when suspending a retailer from a wholesale market, this includes specific time-frames for when notices (default and suspension) may be issued. .

Table a shows that the AER would expect a retailer to inform it if it considered there were circumstances which may lead to its suspension from the wholesale market. The AER's expectation is that AEMO would also inform it if it is issuing a margin call (Table b).

a. Information flows prior to issuing a RoLR notice – general

Note – this table does not deal with information required under RoLR expressions of interest (EoI) processes. The proposed communications for the EOI process will be specified in the RoLR appointment guidelines.

To	From	Communication	Time Frame
AER	Retailer	Advice that the retailer has reason to believe there is an event, circumstance or matter that might affect a retailer’s ability to maintain continuity of supply to its customers or give rise to a RoLR event in relation to the retailer.	Without delay
AEMO, Minister, Department	AER	Advice that the AER has formed a belief that a RoLR event may happen e.g. because a retailer has informed it, or because it intends to revoke an authorisation).	Without delay
Designated RoLR / Distributor	AER	Notification may be provided by the AER in accordance with its contingency event powers.	Where possible prior to issuing a RoLR notice
AEMO	AER	Confirmation of the designated RoLR.	As soon as possible.

b. Information flows prior to issuing a RoLR notice – specific

1. AEMO Electricity wholesale market suspension process

To*	From	Communication	Proposed timeframe
AER	AEMO	Call notice issued - Email a copy of the call notice, including the identity of the market participant, to the designated RoLR contact officers.	Within 2 hours of the notice issue or if the event occurs after 4pm by midday the following business day.
AER	AEMO	Call notice satisfied - Email advice that the call notice has been satisfied.	Within 2 hours or if the event occurs after 4pm by midday the following day.
AER	AEMO	Default notice issued - Advise via phone and email that a default notice has been issued.	Without delay.
Minister and energy departments	AER	Default notice issued - Advise via phone and email that a Default notice has been issued.	Within 2 hours (from receipt of AEMO advice) or if the event occurs after 5pm by 12pm the business day.
Distributors, registered RoLRs (of whom the inquiries are made),	AER	Default notice issued - Advise via phone and email that a RoLR event	Within 2 hours (from receipt of AEMO’s advice) or if the event occurs after

relevant default RoLRs and an insolvency official of a retailer.		may occur. [Notification may be provided in accordance with contingency event powers].	5pm by 12pm the following business day.
AER	AEMO	Default notice satisfied - Advise via phone and email that the default notice has been satisfied.	Without delay.
Minister and energy departments	AER	Default notice satisfied - Email advice that the Default Notice has been satisfied.	Within 2 hours (from receipt of AEMO's advice) or if the event occurs after 5pm by 12pm the following business day.
Distributors, registered RoLRs (of whom the inquiries are made), relevant default RoLRs and an insolvency official of a retailer.	AER	Default notice satisfied - Advise via phone and email that a RoLR event is unlikely. [Notification may be provided in accordance with contingency event powers].	Within 2 hours (from receipt of AEMO's advice) or if the event occurs after 5pm by 12pm the following business day.
AER	AEMO	Failure to adequately respond to Default notice - Advise via phone and email that the default notice has not been satisfied	Without delay.
Minister and energy	AER	Failure to adequately	Within 1 hour (from

departments		respond to Default notice - Email advice that the Default Notice has not been satisfied.	receipt of AEMO)
Distributors, registered RoLRs (of whom the inquiries are made), relevant default RoLRs and an insolvency official of a retailer	AER	Failure to adequately respond to Default notice - Advise via phone and email that a RoLR event is about to occur. [Notification may be provided in accordance with contingency event powers].	Within 2 hours (from receipt of AEMO)
AER	AEMO	Suspension notice issued - Advise via phone and email that a suspension notice has been issued.	Without delay.

Gas Wholesale market suspension process

To*	From	Communication	Timeframe
AER	AEMO	Margin Call issued - Email a copy of the margin call, including the identity of the market participant, to the designated RoLR contact officers.	Within 2 hours or if the event occurs after 4pm by midday the following business day.
AER	AEMO	Satisfactory response to a	Within 2 hours or if the

		margin call - Email advice that the margin call has been satisfied.	event occurs after 4pm by midday the following business day.
AER	AEMO	Default notice issued - Advise via phone and email that a default notice has been issued and information on aggregate withdrawals and number of customers in the jurisdiction.	Without delay.
Minister and energy departments	AER	Default notice issued - Advise via phone and email that the Default notice has been issued.	Within 2 hours (from receipt of AEMO) or if the event occurs after 4pm by 12pm the following business day.
Distributors, registered RoLRs (of whom the inquiries are made), relevant default RoLRs and an insolvency official of a retailer.	AER	Default notice issued - Advise via phone and email that a RoLR event may arise. [Notification may be provided in accordance with contingency event powers].	Within 2 hours (from receipt of AEMO) or if the event occurs after 4pm by 12pm the following business day.
AER	AEMO	Default notice satisfied - Advise via phone and email that the default notice has been satisfied.	Without delay.

Minister and energy departments	AER	Default notice satisfied - Email advice that the Default Notice has been satisfied.	Within 2 hours (from receipt of AEMO) or if the event occurs after 4pm by 12pm the following business day.
Distributors, registered RoLRs (of whom the inquiries are made), relevant default RoLRs and an insolvency official of a retailer.	AER	Default notice satisfied - Advise via phone and email that a RoLR event is unlikely. [Notification may be provided in accordance with contingency event powers].	Within 2 hours (from receipt of AEMO) or if the event occurs after 4pm by 12pm the following business day.
AER	AEMO	Failure to adequately respond to Default notice - Advise via phone and email that the default notice has not been satisfied	Without delay.
Minister and energy departments	AER	Failure to adequately respond to Default notice - Email advice that the Default Notice has not been satisfied.	2 hours (from receipt of AEMO) or if the event occurs after 4pm by 12pm the following business day.
Distributors, registered RoLRs (of whom the inquiries are made), relevant default RoLRs and an insolvency official	AER	Failure to adequately respond to Default notice - Advise via phone and email that a RoLR event is about to occur.	2 hours (from receipt of AEMO) or if the event occurs after 4pm by 12pm the following business day.

of a retailer		[Notification may be provided in accordance with contingency event powers].	
AER	AEMO	Suspension notice issued - Advise via phone and email that a suspension notice has been issued.	Without delay.

*At each stage, the receiving party must acknowledge receipt of the communication received.

Appendix B – Proposed communication requirements following the issue of a RoLR notice per affected party

This table sets out proposed communications to occur following the issue of a RoLR notice.

To	From	Communication	Timeframe
Affected community	AER/AEMO	Publication of the RoLR notice on websites.	Within 2 hours of the AER issuing the RoLR notice
	AER	Live or recorded message on AER number	
		Press release to media outlets	
		Email notification to information conduits e.g. MPs, migrant resource centres etc..	4 hours of the AER giving the RoLR notice.
Affected community: large retailer failure	AER	Radio, newspaper and potentially television	2 to 7 days of the AER giving the RoLR notice.
Affected community: smaller retailer failure	AER	A newspaper advertisement, included in certain state-wide broadsheets, tabloid papers	2 to 7 days of the AER giving the RoLR notice.

Affected community: customers whose transfers were cancelled	The retailer the customer is returning to.	and/or local newspapers. A letter	Within 14 days of the AER giving the RoLR notice.
Affected small customers and large customers	Failed retailer	Website notice (if possible) Call centre message (if possible) Information sent in the final bill.	Within 48 hours of the AER giving the RoLR notice. Within 48 hours of the AER giving the RoLR notice. Up to 14 days of the AER giving the RoLR notice.
	Designated RoLR	Introductory letter Completion of RoLR arrangements letter	7 to 21 days of the AER giving the RoLR notice. One week prior to the cessation of RoLR arrangements.
Affected large customer	Designated RoLR	Phone call	As soon as possible after receiving the RoLR notice.

Affected small customers and large customers	AER	<p>AER:</p> <ul style="list-style-type: none"> - Website <ul style="list-style-type: none"> o Q&A section o Links to price comparators and price disclosure statements 	Within 48 hours of the AER giving the RoLR notice.
Ministers and departmental officers in affected jurisdictions	AER	<p>RoLR notice</p> <p>Verbal communication</p> <p>First week RoLR event brief</p> <p>RoLR event report</p>	<p>Within 2 hours of the AER being notified of the retailer suspension or otherwise, 2 hours from an AER Board decision to invoke a RoLR event.</p> <p>On a needs basis and communicated through designated RoLR contact officers.</p> <p>To be provided at the end of 7th day following day the RoLR notice was provided.</p> <p>Within a prescribed timeframe set out by the Retail Law or as agreed between the AER and</p>

			MCE.
Energy ombudsman	AER	RoLR notice	Within 2 hours of the AER being notified of the retailer suspension or otherwise, 2 hours from an AER Board decision to invoke a RoLR event.
		RoLR event questions and answers	Within 48 hours of the AER giving the RoLR notice.
		RoLR event dispute resolution processes between the ombudsman, RoLR and failed retailer or insolvency official	NA
Failed retailer and insolvency official	AER	RoLR notice	Within 2 hours of the AER being notified of the retailer suspension or otherwise, 2 hours from an AER Board decision to invoke a RoLR event.
		RoLR event factsheet for insolvency officials	Within 48 hours of the AER giving the RoLR notice but within 2 hours of becoming aware of who has been appointed as the

			insolvency official)?
AER	AEMO	Confirmation to the AER that AEMO has sufficient system capacity to effect customer transfers. RoLR notice	Capacity established during RoLR regulatory development and confirmed with the AER prior to RoLR event transfer. Within 2 hours of the AER being notified of the retailer suspension or otherwise, 2 hours from an AER Board decision to invoke a RoLR event.
Affected distributors	AER	RoLR notice	Within 2 hours of the AER being notified of the retailer suspension or otherwise, 2 hours from an AER Board decision to invoke a RoLR event.
Affected designated RoLRs	AER	RoLR notice	Within 2 hours of the AER being notified of the retailer suspension or otherwise, 2 hours from an AER Board decision to invoke a RoLR event
Registered participants	AEMO	RoLR notice to be provided by AEMO	As soon as practicable

Appendix C –RoLR customer transfer notifications

Adapted from *ESCV RoLR manual* p.22.

Purpose of this diagram is to show the AER's and AEMO's procedure for transferring customers from the failed retailer to the RoLRs.

