Report

RoLR public exercise conduct report 21 October 2013

19 November 2013

© Commonwealth of Australia 2013

This work is copyright. Apart from any use permitted by the Copyright Act 1968, no part may be reproduced without permission of the Australian Competition and Consumer Commission. Requests and inquiries concerning reproduction and rights should be addressed to the Director Publishing, Australian Competition and Consumer Commission, GPO Box 3131, Canberra ACT 2601.

Inquiries about this report should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Tel: (03) 9290 1444
Fax: (03) 9290 1457
Email: AERInquiry@aer.gov.au

**Contents**

[1 RoLR Exercise Report 1](#_Toc371945770)

[1.1 Summary 1](#_Toc371945771)

[1.2 RoLR exercise details 1](#_Toc371945772)

[1.2.1 Venue 1](#_Toc371945773)

[1.2.2 Attendees 2](#_Toc371945774)

[1.2.3 Purpose 2](#_Toc371945775)

[1.2.4 Scenario 2](#_Toc371945776)

[1.3 Key matters addressed 2](#_Toc371945777)

[1.4 Key discussion topics and questions 3](#_Toc371945778)

[1.5 Conclusion 6](#_Toc371945779)

[1.6 Further AER RoLR information 6](#_Toc371945780)

[Appendix A – RoLR plan participants in attendance 8](#_Toc371945781)

# RoLR Exercise Report

## Summary

Under the National Energy Retail Law (NERL), the AER is responsible for overseeing the national Retailer of Last Resort ([*RoLR*](http://www.aer.gov.au/glossary#RoLR)) scheme. The scheme is principally designed to ensure that in the event of retailer failure, arrangements are in place to ensure that customers continue to receive electricity and/or gas supply. Under the RoLR scheme, the AER must publish the [RoLR guidelines,](http://www.aer.gov.au/node/1189) publish the [RoLR plan,](http://www.aer.gov.au/node/1189) appoint default RoLRs, maintain and publish a [register of RoLRs,](http://www.aer.gov.au/node/6352) appoint designated RoLRs following a RoLR event and make RoLR cost recovery scheme determinations.

The AER is required to develop a RoLR plan, which includes a plan for regular exercises to be carried out by the participants in the plan (NERL s162(2)(b)). Further, the AER is required to publish a report on the conduct of RoLR exercises (NERL s.163(a)).

This document reports on the planning, conduct and outcomes from the AER’s RoLR exercise that was carried out on 21 October 2013. The exercise involved participants representing gas and electricity supply companies, electricity and gas distribution companies, energy Ombudsman Schemes, jurisdictional regulators, jurisdictional energy departments and energy market bodies. The purpose of the exercise was to:

* assist RoLR plan participants to be able to better undertake their responsibilities during a RoLR event
* remind RoLR plan participants of their obligations under the RoLR scheme
* clarify the procedures that would be followed in a retailer failure event.

During and following the exercise, a number of key topics and discussions were raised by RoLR plan participants. These included clarification on the RoLR framework, RoLR processes and procedures, market considerations, and RoLR plan participant obligations. These are discussed in detail later this document.

## RoLR exercise details

The RoLR exercise was held on Monday, 21 October 2013, 1:00pm – 2:30pm (AEDT).

### Venue

AER offices in the following locations:

* Adelaide: Level 2, 19 Grenfell Street
* Brisbane: Level 24, 400 George Street
* Canberra: 23 Marcus Clarke Street
* Hobart: Level 2, 70 Collins Street
* Melbourne: Level 35, 360 Elizabeth Street
* Sydney: Level 20, 175 Pitt Street.

### Attendees

115 individuals from 55 organisations (see **Appendix A** for the list of RoLR plan participants in attendance).

### Purpose

The purpose of the exercise was to:

* assist RoLR plan participants to be able to better undertake their responsibilities during a RoLR event
* remind RoLR plan participants of their obligations under the RoLR scheme
* clarify the procedures that would be followed in a retailer failure event.

### Scenario

The following scenario was used:

* A dual fuel retailer, parent company Bundle Energy Pty Ltd, operates an electricity retail business (Bundle Electricity Pty Ltd) across the National Electricity Market (NEM), and a gas retail business (Bundle Gas Pty Ltd) in the Victorian Declared Wholesale Gas Market, New South Wales Short Term Trading Market (STTM), South Australian STTM and sells gas into the Australian Capital Territory.
* Due to financial difficulties and not meeting debts, an insolvency official is appointed by the courts to wind up Bundle Gas Pty Ltd. This is uncovered by the AER through regular market monitoring activity.
* The appointment of an insolvency official constitutes a RoLR event under s.122 of the NERL.
* The period for the RoLR event is July 2015, when all jurisdictions have commenced the National Energy Customer Framework (NECF).

## Key matters addressed

The exercise addressed the following matters:

* Review of the RoLR framework
* Key functions of RoLR plan participants
* AER gas directions powers
* AER contingency powers
* The roles of default and additional RoLRs, and the appointment of designated RoLRs
* Key decisions and communication flows prior to a RoLR event
* RoLR desktop exercise: dual retailer failure in the gas market of the authorised gas entity, followed by failure in the electricity market by the authorised electricity entity
* RoLR event management and customer transfer activity
* Management of RoLR events across NECF and non-NECF jurisdictions prior to commencement of the NECF in all jurisdictions.

## Key discussion topics and questions

Participants held discussions on four main themes:

1. AER and AEMO processes and procedures
2. What is the frequency of public RoLR exercises?

Exercise frequency is determined by the AER and AEMO (RoLR plan cl.6.3(a)). Exercises will usually be held annually, but annual exercises may not always be necessary, for example where an actual RoLR event occurs.

1. How would the AER become aware that a retailer was failing?

The AER might become aware from a number of sources, including the failing retailer, AEMO, reviewing ASIC registers and notices, and through market intelligence from other RoLR plan participants.

1. Who would the AER share in confidence information with under its contingency event powers?

If the AER has formed a reason to believe there is a risk of a RoLR event, the AER *must* advise AEMO, Ministers and energy departments of participating jurisdictions (RoLR plan cl.2.1(a)(i)). The AER *may* also inform distributors, registered RoLRs, default RoLRs, and any other participant the AER considers relevant (NERL s.130(5)), which includes ombudsman schemes (RoLR plan cl.2.1(a)((i)).

1. What are the agreed customer transfer dates should the RoLR event occur over a weekend, but the suspension notice is given on the Friday night?

The RoLR effective transfer date is the next calendar day after the declaration of the RoLR event. This is the date from which National Meter Identifiers (NMIs) for which the suspended retailer was the Financially Responsible Market Participant are transferred to the designated RoLR. At that date, the RoLR becomes the Financially Responsible Market Participant (AEMO NEM RoLR Processes v1.2).

1. How will customers of a failed retailer who are situated within an embedded network be managed under a RoLR event?

Although the RoLR framework and the AEMO RoLR procedures do not explicitly discuss embedded networks, a customer of a failed retailer in an embedded network with a discoverable NMI in MSATS purchasing electricity from an authorised retailerwould be transferred to a RoLR designated by the AER (this may also be the Default RoLR as designated by the AER).

1. Will the AER assess the technical capabilities of a registered RoLR when considering designated RoLR appointments?

The AER must consider the RoLR criteria when assessing the capacity of a retailer to be a registered RoLR (NERL ss.124(3), 125(6) & 126(2)), and when appointing a designated RoLR (NERL s.133(1)(a)). The RoLR criteria includes criteria for the organisational and technical capacity, financial resources and suitability of the organisation (NERL s.123(1)).

1. Market considerations
2. If the AER forms a reason to believe that there is some risk that may or will affect or risk affecting continuity of sale to energy to a retailer’s customers, would there be the ability for a failing retailer to manage a trade sale of their customers?

The AER has acknowledged that the RoLR scheme should not discourage trade sale opportunities (RoLR Statement of Approach s.2). If the AER releases information through the exercise of its “contingency powers” under sections 130 and 131 of the Retail Law, the AER will consider whether the exercise of these powers may unintentionally provoke or bring forward a retailer failure, and whether releasing information about a likely RoLR event may preclude opportunities for a trade sale (RoLR Statement of Approach s.4.3). However, it may not always be feasible for a failing retailer to manage a trade sale of their customers, and the implications of using the AER’s “contingency powers” will be assessed on a case-by-case basis.

1. How will the AER consider the terms and conditions of pipeline capacity and the effect on contracts following a gas RoLR event should the AER use its gas directions powers? Are the prevailing terms and conditions those that prevailed prior to the RoLR event or after the RoLR event?

While it is recognised the AER will not have full vision of the prevailing terms and conditions of market contracts, the AER would take into account the individual circumstances of the failed retailer and the designated RoLR (NERL s.137(7)). The prevailing terms and conditions that the AER would take into account for the purposes of s. 137 would be those that prevailed prior to the occurrence of the RoLR event.

1. RoLR plan participant obligations
2. Is the failed retailer required to provide life support and hardship details of customers to the designated RoLR(s), and what is the timing of the information exchange?

Failed retailers must provide customer details to the designated RoLR(s) which include, and must clearly identify, customers requiring life support equipment as well as hardship customers (NERL s.163(c)(i), RoLR plan cl. 2.4(2)(iii)). Further, cl.14(c)(2) of the Victorian Energy Retail Code requires Victorian gas retailers or distributors to register a customer’s supply address as a medical exemption supply address should the customer request registration and provide a current medical certificate certifying that a person residing at the supply address has a medical condition which requires continued supply of gas.

The timings for the information exchange for the different gas markets and the NEM are as follows:

NSW/ACT Gas RoLR

As soon as is practicable, but in any event not later than two *business days* after receiving a request from the *Rules administrator* (ie, AEMO)*,* the *affected user* must provide the *Rules administrator* with *customer information* for each *delivery point identifier* for which it was the *current user* immediately prior to the *RoLR effective date*.

Vic Gas RoLR

Before the *RoLR gas day,* AEMO must:

provide each *declared host Retailer* a file containing customer details using the most recently received *complete customer listing* in accordance with the *Gas Interface Protocol.*

SA Gas RoLR

Before the *RoLR gas day*, the *failed Retailer* or its *insolvency official* must provide each *designated RoLR* a file containing customer details for the MIRNs for which they will become the *current user* in accordance with the *AEMO Specification Pack*.

QLD Gas RoLR

No Obligation.

National Electricity Market

NEM RoLR Process state:

a) The *suspended retailer/insolvency official* must make reasonable endeavours to comply (with clause 102.3(a) of the NEM RoLR process) by the end of the next *business day* after receiving the *NMI* List report provided by AEMO and, if that is not possible, must comply within four business days of receiving it.

b) The *LNSP* must comply (with clause 102.4(a) of the NEM RoLR Process) within four business days of receiving the *NMI* List reports provided by AEMO.

1. What are the RoLR obligations for retailers selling only to large customers?

Retailers selling only to large customers share the same obligations as other retailers in regards to being required to advise the AER if they may be at risk of failure (NERL s.150(2)), and communicate to any “in-flight” transfer customers to the failed retailer (NERL s.140(6); RoLR plan cl.2.3(b)). Further, RoLR scheme obligations relevant to retailers of large customers only include:

* Advising AEMO in writing if a retailer is to be the nominated retailer for a large customer so that AEMO may transfer the large customer to the nominated retailer instead of the default RoLR (NERL 140(7))
* Retailers selling to large customers only may submit an EOI to be an additional RoLR with a firm offer for large customers only (AER RoLR Guideline cl.4.1; AER Statement of Approach cl.3.4)
* The RoLR Procedures/Processes are applicable to NMIs that have the classification of large or small, Service Providers, RoLR-event affected Participants and Suspended retailer.
1. Clarification of RoLR regime provisions
2. What is the notified time and date of a RoLR event if an administrator were to be appointed?

The appointment of an administrator is a RoLR event (NERL s.122), and the RoLR event occurs when the administrator is appointed. Where the RoLR event involves suspension from the wholesale market, the transfer date is taken to be the date and time of the suspension unless an earlier date is fixed (NERL s.136(5)).

## Conclusion

This RoLR exercise report describes the conduct of the RoLR exercise undertaken with RoLR plan participants on 21 October 2013. In developing the exercise, the AER worked closely with AEMO, with the overall purpose of ensuring that RoLR plan participants are able to meet their RoLR obligations under the NERL.

A post-exercise review suggests that key RoLR plan participants are aware of their RoLR obligations, and have undertaken preparations as required. Further, there is a greater awareness amongst second tier retailers of their RoLR obligations. These outcomes were evident through the level of detailed questions during the exercise, as well as through discussions with RoLR plan participants during the exercise preparation.

The AER considers that the exercise was successful in ensuring the RoLR plan participants are better prepared to meet their RoLR obligations under the NERL, however, the AER will consider improvements to the format based on feedback received. The AER will conduct the next public RoLR exercise in 2014.

## Further AER 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%28SOUTH%20AUSTRALIA%29%20ACT%202011.aspx)

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

AER RoLR email contact: AERRoLR@aer.gov.au

AEMO RoLR Policies and Procedures:

* NEM <http://www.aemo.com.au/Electricity/Policies-and-Procedures/B2B/NEM-RoLR-Processes>
* Gas (found within each separate gas market’s policies and procedures): <http://www.aemo.com.au/Gas/Policies-and-Procedures>

Appendix A – RoLR plan participants in attendance

ACT Civil and Administrative Tribunal (ACAT)

ACT Government

ActewAGL (distribution)

ActewAGL Retail

AGL Energy Limited / AGL Sales Pty Ltd / AGL South Australia

Alinta Energy Retail

APA Group - Envestra (incl Wagga Wagga)

Aurora Energy (distribution)

Aurora Energy Retail

Ausgrid

Australian Energy Market Commission

Australian Energy Market Operator

Australian Energy Regulator

Australian Power and Gas

Blue NRG

CitiPower & Powercor Australia Ltd

Department for Manufacturing, Innovation, Trade, Resources and Energy (DMITRE)

Department of Energy & Waters Supply (DEWS)

Department of Infrastructure, Energy and Resources (DIER)

Department of Resources, Energy & Tourism (DRET)

Department of State Development, Business and Innovation (DSDBI)

Dodo Power and Gas

EDL Retail

Endeavour Energy

Energex

Energy and Water Ombudsman New South Wales (EWON)

Energy and Water Ombudsman South Australia (EWOSA)

Energy and Water Ombudsman Victoria (EWOV)

EnergyAustralia

Ergon Energy

Ergon Energy (distribution)

ERM Power Retail

Essential Energy

Essential Services Commission of Victoria (ESCV)

Go Energy

Industry & Investment NSW

Infigen Energy Holdings

International Power (Retail)

Jemena

Lumo Energy

Momentum Energy

Office of the Tasmanian Economic Regulator (OTTER)

Origin Energy Retail Limited

Pacific Hydro

People Energy

Powershop

QEnergy

Queensland Competition Authority (QCA)

Red Energy

SA Power Networks

Simply Energy

SP AusNet

Stanwell Corporation

Sun Retail

United Energy & Multinet Gas

WIN Energy