



ICRC
INDEPENDENT COMPETITION AND REGULATORY COMMISSION

RETAILER OF LAST RESORT GUIDELINES

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1 INTRODUCTION

With the Territory's electricity market scheduled to open on 1 March 2003 a number of regulatory mechanisms need to be in place. One such mechanism is an effective Retailer of Last Resort (RoLR) scheme, whereby customers can be expeditiously transferred from a failed or failing retailer to another.

The National Electricity Code (the Code) establishes processes to facilitate the smooth running and long-term viability of the National Electricity Market (NEM). Thus the Code makes provision for the circumstance in which a retailer may fail the prudential rules relating to the continuing operation as a going concern. The Code sets out the process for raising alarm about the credit worthiness of market participants and accommodates the development of RoLR arrangements in each of the jurisdictions participating in the NEM. The jurisdictional regulators are responsible for ensuring that the RoLR arrangements in their jurisdiction are effective.

In the ACT the jurisdictional regulator is the Independent Competition and Regulatory Commission (ICRC). In addition to its obligations under the Code the ICRC has responsibilities for electricity supply under the *Utilities Act 2000*.

In the event of a prudential crisis the ICRC is also responsible for coordinating the RoLR process to ensure that customers continue to be supplied with electricity and that the market remains efficient. The ICRC will also monitor developments after the suspension date to ensure that customers are not disadvantaged, that the market returns to a competitive basis and that there is sufficient information in the market place to enable customers to make choices about alternative electricity retailers.

RoLR arrangements will also apply in other circumstances, for example if a retailer's licence were suspended or revoked under the Utilities Act and they were unable to legally continue to supply electricity in the ACT.

These Guidelines provide instructions to the RoLR with respect to the terms and conditions under which RoLR services may be provided, and to the information that they must provide customers. In addition the Guidelines outline the events and the associated steps in the monitoring and customer transfer processes. Draft briefs to the Commissioners, Minister and RoLR are also included.

The Guidelines have been considered and agreed by the Commissioners of the ICRC. The process detailed in the table has been tested to ensure that as far as possible the arrangements can be put fully into effect when required.

Ian Primrose
Chief Executive Officer

2 RETAILER OF LAST RESORT GUIDELINES

1. APPLICATION AND PURPOSE OF THESE GUIDELINES

1.1 Application

The guidelines apply to **electricity suppliers** providing **retailer of last resort services** in the Territory.

1.2 Purpose

The purpose of the guidelines is to set out those matters that:

- (a) must be addressed in **standard retailer of last resort contracts**; and
- (b) must be advised to any **customers** transferred to an **electricity supplier** providing **retailer of last resort services**.

2. DICTIONARY

The dictionary attached at the end of these **retailer of last resort** guidelines is part of these guidelines.

3. RETAILER OF LAST RESORT OBLIGATIONS

3.1 An **electricity supplier** that is providing **retailer of last resort services** must have a **standard retailer of last resort contract**. A **standard retailer of last resort contract** must contain provisions to the effect that the **electricity supplier** must:

- (a) at commencement: provide **retailer of last resort services** to the customer from the **trigger time**;
- (b) give notice: as soon as practicable after the **customers** are transferred to the **electricity supplier** providing **retailer of last resort services**, notify each **customer** that it is providing **retailer of last resort services** to the **customer**;
- (c) at termination: provide **retailer of last resort services** to the **customer** until the earlier of:
 - (i) the termination or the **standard retailer of last resort contract** by the **customer**; or
 - (ii) the date that is three months from the relevant **trigger time**;
- (d) specify **cost**: provide for the charges payable by the **customer** for electricity supplied under the **standard retailer of last resort contract**, the greater of:
 - (i) the **retailer of last resort** default tariff (as defined by reference to tariffs regulated by **ICRC**); or
 - (ii) the **NEMMCO** pool price plus a margin of 10% (margin capped at \$20 per MWh with adjustment for change in the CPI relative to the December quarter of 1998); and
- (e) specify any other terms and conditions that apply to the supply of electricity under **retailer of last resort** arrangements.

- 3.2 A notice given to a **customer** under clause 3.1(b) must include the following information:
- (a) an explanation of what has happened to the **customer's** former **electricity supplier** and of the **retailer of last resort** process;
 - (b) the date of transfer from the **customer's** former **electricity supplier** to the **electricity supplier** providing **retailer of last resort services**;
 - (c) meter reading arrangements;
 - (d) an explanation of the status of the **customer's** account with their former **electricity supplier**;
 - (e) the **customer's** options to transfer to another **electricity supplier** or to remain with the **electricity supplier** providing the **retailer of last resort services**;
 - (f) details about where the **customer** can get further information and advice; and
 - (g) in the five most common non-English languages spoken in the ACT, about the availability of interpreter services for the languages concerned and telephone numbers for the services.

4. VARIATION OF RETAILER OF LAST RESORT OBLIGATIONS

- 4.1 The **ICRC** may vary the **retailer of last resort** guidelines:
- (i) on application by an **electricity supplier**; or
 - (ii) on its own initiative, by written notice to the **electricity supplier**.
- 4.2 **ICRC** may vary the **retailer of last resort** guidelines on its own initiative only if **ICRC**:
- (i) has given the **electricity supplier** reasonable notice of the proposed variation and its reasons for the variation; and
 - (ii) has allowed the **electricity supplier** a reasonable opportunity to make representations to **ICRC** about the proposal; and
 - (iii) has taken account of any representation; and
 - (iv) is satisfied that the variation is appropriate.
- 4.3 **ICRC** may vary the **retailer of last resort** guidelines on its own initiative without complying with clause 4.2 if it is satisfied that:
- (i) the variation is necessary or convenient because of an amendment to an Act or a subordinate law; or
 - (ii) the variation:
 - is unlikely to adversely affect anyone; and
 - would not materially alter the **retailer of last resort** guidelines.
- 4.4 A variation takes effect:
- on the day **ICRC** gives written notice of the variation to the **electricity supplier**; or
 - if the notice specifies a later date of effect, on that day.

3 DICTIONARY

Act	means the <i>Utilities Act 2000</i> ;
cost	includes any cost, charge, expense, outgoing, payment or other expenditure of any nature whatever, including where appropriate all reasonable and proper legal fees;
customer	means a person who buys or proposes to buy electricity from an electricity supplier ;
electricity supplier	means a person who holds a utility services licence for the supply of electricity: the term is used interchangeably with “electricity retailer”;
NEMMCO	means the National Electricity Market Management Company Limited ACN 072 010 327;
person	includes a natural person, a firm, an unincorporated association, a Territory agency, a corporation or any other body corporate;
retailer of last resort	means the electricity supplier providing retailer of last resort services ;
retailer of last resort services	means the supply of electricity to a customer whose other supplier of electricity ceases (either permanently or temporarily) to be lawfully able to supply electricity to the premises of the customer and that inability was not caused by the customer ;
standard retailer of last resort contract	means a contract that relates to the giving of retailer of last resort services to a customer by an electricity supplier ;
trigger time	means the time at which the electricity supplier ceases (either permanently or temporarily) to be lawfully able to supply electricity to the premises of a customer ;
utility	means a person who holds a utility services licence ;
utility services licence	means a licence granted to a utility by ICRC under the Act .

4 RETAILER OF LAST RESORT PROCESS FOR ICRC

NEMMCO Action	Timing	NEMMCO advice to ICRC	Action by ICRC
Monitoring credit limits according to the National Electricity Code	daily	nil required	nil required
NEMMCO Issues a Call Notice to a market participant when trading limit exceeds 84% of the credit support held by NEMMCO. Call Notice seeks to have either payment of an amount of cash or additional credit support that would bring the participant's trading position to the typical accrual for that market participant	Before noon on a business day	NEMMCO will advise ICRC that a Call Notice has been issued to an unnamed electricity supplier.	Advise ICRC Commissioners (see draft at section 5) and the Minister (see draft at section 6) that a Call Notice has been issued and that a mandatory process is in effect that may lead to market suspension of an electricity supplier. Commissioners will be advised at this time about the RoLR process and what may be required in relation to ICRC decisions and activities as the process unfolds.
If electricity supplier satisfies the Call Notice, no further action is taken by NEMMCO	By 11.00 am on the next business day	NEMMCO advise ICRC that no further action is required.	Advise Commissioners and Minister that the Call Notice is withdrawn and no further action is required.
If electricity supplier does not satisfy the Call Notice or if any other default event occurs, NEMMCO issues a Default Notice.	As soon as practicable after NEMMCO confirms that the default event has occurred	NEMMCO advises that the Call Notice has not been satisfied or that another default event has occurred and that a Default Notice has been issued. In addition, NEMMCO advises the name of the retailer, details of the default event, the numbers of customers and the overall	Commissioners Advise Commissioners that the Call Notice conditions have not been met and that a Default Notice has been issued (see draft at section 7). Advise that, potentially, suspension will occur within 24 hours unless the

		<p>load involved.</p>	<p>participant immediately takes appropriate action. Advise about the timing of future actions.</p> <p>Seek legal advice on risks in the next steps of the process and advise legal representatives that action may be taken that will require immediate response.</p> <p>Minister/Department</p> <p>Prepare a confidential briefing for the Minister (see draft at section 8), Minister's office and Department of Treasury outlining the steps taken and to be taken, the RoLR arrangements, media responsibilities etc.</p> <p>RoLR</p> <p>Advise:</p> <ul style="list-style-type: none"> • that a Default Notice has been issued; • about numbers of customers and load involved; and • about the media notices that will be required to inform customers. (see draft at section 9).
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			<p>Regulators</p> <p>Contact regulators in other jurisdictions to coordinate responses to media inquiries and any other actions arising from the suspension.</p>
<p>If electricity supplier subsequently responds to the Default Notice by rectifying the default condition no further action is taken by NEMMCO</p>	<p>Within 24 hours after the issue of the Default Notice on a business day (or later time if requested by participant and agreed by NEMMCO)</p>	<p>NEMMCO advises ICRC that retailer has satisfactorily responded and that no further action is required.</p>	<p>Advise Commissioners that the Default Notice has been satisfied and no further action is required.</p>
<p>If no appropriate response to Default Notice and NEMMCO determines further action is required</p>	<p>24 hours after the issue of the Default Notice on a business day (or later time if requested by Participant and agreed by NEMMCO)</p>	<p>NEMMCO advises that the Default Notice has not been satisfied and issue is under further consideration by NEMMCO.</p> <p>Advice about when the matter will be given further consideration or, if there is a delay in such further consideration, an indication of when suspension is likely to be considered.</p>	<p>Commissioners/Minister/Department</p> <p>Advice to Commissioners, Minister, Department, and Essential Services Consumer Council (ESCC) that a recommendation to suspend is being considered and that suspension may be imminent.</p> <p>Ensure all media statements are prepared for coordinated release. Media releases</p>

			<p>must be accurate in advising customers/industry about what is being suspended (ie only the right to participate in the electricity market, not any other market).</p> <p>Utility</p> <p>Contact electricity supplier to ensure that they are aware that suspension will affect their operations in the ACT and potentially have an impact upon their licence in the ACT. Seek assurances about their position and information about their response to the potential suspension.</p>
<p>NEMMCO decides that suspension to be effective from midnight on the same day.</p> <p>Media statement by NEMMCO on suspension.</p>	<p>After consideration with due diligence of the facts of the matter</p>	<p>NEMMCO advises that suspension is to take effect from midnight on the same day. NEMMCO provides copy of media release.</p> <p>NEMMCO confirms the suspended retailer's identity and provides detailed advice about NMIs, loads, customers etc</p> <p>NEMMCO systems will transfer customers from suspended retailer to RoLR at midnight.</p>	<p>Commissioners</p> <p>Advice on suspension and the potential for other related action under the <i>Utilities Act 2000</i> (ie effect on licence for electricity supply but no other automatic impact on licence to supply other energy products). Advice about the interjurisdictional issues associated with the suspension.</p> <p>Minister and Department</p> <p>The Minister's media statement should be prepared and coordinated with media</p>

			<p>statements by the ICRC and RoLR. Media statements should provide assurances about the management of the market and continuity of supply and include advice about the process for customers choosing another retailer after the RoLR transfer.</p> <p><i>RoLR</i></p> <p>Confirm that the NEMMCO Board has approved suspension and that it is to take effect from midnight that night (see draft at section 10).</p> <p><i>Utilities and consumers</i></p> <p>Media statements should advise customers about the suspension and provide assurances about continuity of supply, and rights and obligations.</p> <p><i>Regulators</i></p> <p>Contact to coordinate responses and to discuss potential for further action to revoke or cancel licences in jurisdictions.</p>
NEMMCO is issued with an injunction restraining them from suspending the market participant	Any time on the day before or the day of the	No advice to ICRC, which will probably also be issued an injunction. No further action to be taken until the	<p>Seek immediate legal advice.</p> <p>Advice to Commissioners on legal liabilities. Advice to Minister and</p>

	announcement to suspend	matter is resolved.	Department about legal position and future actions. Advice to RoLR.
Market reorganisation	Day after suspension	NEMMCO systems will issue standard transfer reports to RoLR and other relevant parties. On the next business day NEMMCO will advise RoLR of increased credit support required as a result of increased customer load, and timeframe for provision of additional credit support by RoLR	Advice to Commissioners and Minister. ICRC provides RoLR with transfers and billing information. Advice to customers and consumers by website and mail detailing the new arrangements and process for electing a new electricity supplier.
Post suspension review of process			ICRC to conduct a post suspension review and recommend any improvements. ICRC and NEMMCO to review their communication protocol. Advice and recommendations to Commissioners.

5 DRAFT BRIEFING FOR THE ICRC COMMISSIONERS: RETAILER OF LAST RESORT PROCESS

Objective

This briefing is to provide some background and advice about the issuing of a Call Notice by the National Energy Market Management Company (NEMMCO) to a retailer of electrical energy and future actions that may be required by the ICRC over the next few days as the process is completed.

Background

Where an electricity retailer fails to comply with the market prudential rules laid out in the National Electricity Code (the Code), managed by NEMMCO, a mandatory process is invoked that may result in a market participant (an electricity retailer) being suspended. Under the Code the ICRC is the jurisdictional regulator for the ACT. The jurisdictional regulator has an important role to play in ensuring that the market remains effective, that customers enjoy continuity and secure supply and that they receive sufficient information about the transfer process to be able to make informed choices about who will supply them in future.

The suspension of a retailer by NEMMCO means that the retailer is no longer able to purchase electricity in the market and that consequently the Retailer of Last Resort (RoLR) arrangements in each jurisdiction in which that retailer operates must come into force. The ICRC has established RoLR arrangements in the event of such an emergency occurring. The process is outlined below. The ICRC has conducted exercises with NEMMCO, the RoLR and the other participants in government to ensure that these arrangements will be effective in the event of a prudential crisis.

The RoLR in the Territory is ActewAGL Retail which assumes this responsibility as a condition of its utilities licence.

Advice provided by NEMMCO about a Call Notice

The reason for this briefing is that NEMMCO has advised the ICRC that a Call Notice has been issued to a retailer that is licensed in the ACT. The process outlined in the Code is now in force and will continue until either the conditions of the Call Notice are satisfied, the conditions of the Default Notice are satisfied or the NEMMCO Board decides that the market participant should be suspended.

The following matters are ones about which you should be aware. The process that the ICRC will be pursuing is designed to ensure that all the stakeholders are properly prepared for a possible suspension and are aware of what suspension of their retailer will mean for them, should that eventuality occur.

What is a Call Notice

As part of its registration process for market participation, each market participant provides NEMMCO with financial guarantees that determine the credit limit for that participant (retailer). NEMMCO daily monitors each market participant's demand for energy. NEMMCO monitors participant's financial risk by assessing the level of debt as a ratio of the participant's credit backing, eg the percentage of the credit limit used. As a benchmark for managing liabilities NEMMCO has set a threshold of 84% of the Credit Limit as a Trading Limit. The average daily trading percentage is typically less than 50% of the Credit Limit.

When a retailer's liabilities rise above 84% of its Credit Limit NEMMCO issues a Call Notice. The Call Notice is a letter of demand that requires the retailer to take steps to reduce their liability to below 60%. The Call Notice can be met by either paying the cash amount advised by NEMMCO in the Notice or by providing NEMMCO with additional credit support so that the Credit Limit is raised. The latter resolves the issue by effectively lowering the relative trading position to less than 60%.

The Call Notice is the first step in a fixed process that will lead to suspension from the NEM, if not addressed. That is the stage at which we are currently.

The Call Notice gives the retailer one business day to respond in one or other of the ways described above to satisfy NEMMCO's demand. NEMMCO is responsible for ensuring that the jurisdictional regulators, for each jurisdiction in which the retailer is licensed, are advised that a Call Notice has been issued. As the timing of other parts of the process is short, notice is required so that regulators can begin coordinating planning for either the retailer satisfying or failing to satisfy the Call Notice.

It is important to note that at this stage there is no breach of the Code but simply a specific warning by NEMMCO that there is a serious and immediate cause for concern and that financial action is needed to restore a satisfactory prudential position.

It is important to note that while the Call Notice process is important and must be taken seriously, there have only been four Call Notices issued since the market opened in 1998 and all have been responded to satisfactorily.

Next steps in the process

Default Notices

If during the 24 hours following the issue of a Call Notice there is a satisfactory response NEMMCO will take no further action. The retailer's trading position will have reduced to its typical accrual. NEMMCO will advise the jurisdictional regulators that the matter is closed.

However, if there is no satisfactory response in the 24 hours following the issue of the Call Notice, NEMMCO will issue a Default Notice. The Default Notice is brief and refers to the details included in the Call Notice, including the amount that is due. The

outstanding amount will be due in full and net of any other financial payments that may fall due at the same time. The Default Notice provides 24 hours in which a retailer may respond. The response required is to remedy the default event of failing to comply with the Call Notice (ie either a cash payment of the full amount or an increase in the financial guarantees in the retailer's credit support).

When a Default Notice is issued, NEMMCO advises the regulators concerned and provides information about the retailer to whom the default notice has been issued and details of the total electricity load involved. No information is passed at this stage about the customers involved or about individual loads or connection data that is necessary for customer transfers to occur. It is assumed regulators will at this stage begin the process of preparing for suspension as the process becomes increasingly urgent from this point forward.

ICRC will at this stage advise you, the Minister, Treasury, the Essential Services Consumer Council (ESCC) and the RoLR. However, the identity of the retailer and other important details will be confidential to NEMMCO and the ICRC until NEMMCO confirms that suspension is warranted.

Suspension Notices

Should the Default Notice not be satisfied within 24 hours of being issued (or a later time if requested by the retailer and agreed to by NEMMCO) NEMMCO may then consider suspension of the defaulting retailer.

It is quite possible that consideration of suspension could occur within hours of the deadline for response to the Default Notice passing. If NEMMCO decides to suspend the defaulting retailer, a notice of suspension is immediately transmitted to the retailer and each regulator is advised. The suspension takes effect from midnight on the day on which the decision is made. The suspension may thus take effect less than twelve hours after it is made.

At the time that the decision is made NEMMCO will simultaneously notify regulators and provide detailed information about the suspended retailer, its customers, NMIs and connection points and connection point loads. The regulator in turn needs to ensure that the RoLR is advised as soon as possible so that the RoLR can be prepared for the transfers that will occur at midnight on that day. The NEMMCO Market Settlement and Transfer Systems (MSATS) will undertake the required transfers at midnight and issue the standard reports electronically to all relevant parties.

What does ICRC need to do now

The attached papers show the process from this point forward. The RoLR arrangements are in place and the process and individual responsibilities are known to the participants and have been subject to testing for reliability and functionality. There is nothing more for the Commissioners to do. The Secretariat will advise you as events unfold. All the materials necessary for the process to be implemented are in place and are being prepared against the eventuality that a Default Notice will be issued tomorrow.

The actions that are being taken by NEMMCO are sanctioned in the National Electricity Code. The ICRC's role is laid out in the Code, the *Utilities Act 2000* and the *Independent Competition and Regulatory Commission Act 1997*. The RoLR arrangements are set out in RoLR guidelines by which the RoLR must abide. Each stage in the process involves the ICRC in extensive consultation with the Minister and various agencies so that the processes may unfold with the minimum of disruption. There are some legal avenues open to the defaulting retailer that may involve the ICRC, for example seeking an injunction to restrain NEMMCO from proceeding as the Code prescribes. Those risks will be managed as they emerge. However, legal advice has been obtained on the process for dealing with actions in the Court, and the legal advising process has been built into the RoLR planning process.

What happens after the crisis is over?

The ICRC will review its processes and seek improvements if any are considered necessary. The review will involve all the parties in the ACT immediately concerned, excluding consumers. NEMMCO and the ICRC will also review their communication protocol. The ICRC may survey consumers after the event to determine whether improvements can be made to the public relations and information access aspects of the process.

6 DRAFT BRIEFING FOR THE MINISTER ON POSSIBLE SUSPENSION OF A RETAILER IN THE ACT ELECTRICITY MARKET

Issue

The ICRC advises you that the National Electricity Market Management Company (NEMMCO) has issued a notice to an electricity retailer with customers in the ACT that a default event has occurred under the National Electricity Code. If the default event is not rectified by XXX tomorrow DDMMYYYY, NEMMCO will proceed to suspend the retailer from trading in the electricity market from midnight on DDMMYYYY.

The process to date

NEMMCO manages the prudential liability in the National Electricity Market by establishing for each electricity retailer a credit limit, determined by the level of credit support the retailer is able to attract from the financial institutions in the market. To guard against unexpected financial failures among market participants, NEMMCO has a trading limit threshold set at 84% of a retailer's credit limit. When the liability rises above 84% of the credit limit, NEMMCO automatically issues a Call Notice to the retailer. The Call Notice provides details of the process for reducing the liability to less than 60% of the credit limit, the time by which that needs to occur, and the amount of money involved. The liability may be reduced by either making a cash payment of the stated amount, or arranging additional credit support. The cash payment is independent of any other financial liabilities that the retailer may be subject to and must be made in full by the required time.

NEMMCO has advised the ICRC that a Call Notice was issued at TT:TT am/pm today.

At this stage there is need for cautious concern only. The ICRC has not been advised about the identity of the retailer, nor of any details of loads or customers. The ICRC is advised of the Call Notice as the jurisdictional regulator under the Code. The probability is that the retailer concerned will satisfy the requirements of the Call Notice given that of the four notices issued since 1998 all were satisfactorily resolved at this stage of the process. A Call Notice is not a breach of the Code, merely an explicit warning that urgent action is required to ensure the retailer remains within the prudential guidelines established by the Code.

AT THIS STAGE ALL INFORMATION RELATING TO THE PROCESS IS CONFIDENTIAL

The process from here

Default Notice

Within 24 hours the retailer may address the Call Notice by paying cash or arranging additional credit support. If one of those actions is taken, the Call Notice will be satisfied and no further action is required.

If the retailer fails to respond appropriately, a default event has occurred and NEMMCO will issue a Default Notice. The Default Notice provides 24 hours for the retailer to make a cash payment or provide additional credit support. If a Default Notice is issued, the ICRC will commence preparations to manage the situation by exercising the Retailer of Last Resort arrangements specified in the Retailer of Last Resort Guidelines. The ICRC will also assist your office and the Department of Treasury to prepare media statements and public information processes to inform customers of their rights and responsibilities, and to assure customers that they will not suffer any interruption to supply.

NEMMCO will provide the ICRC with more information at the Default Notice stage when it will further brief you, your Department and the Retailer of Last Resort.

AT THIS STAGE ALL INFORMATION RELATING TO THE PROCESS IS CONFIDENTIAL

Suspension

If, after 24 hours, the retailer still has not redressed the default event, NEMMCO will consider suspending the retailer, at which time the retailer will be advised about suspension, a media statement will be made by NEMMCO and the relevant regulators will be advised. Suspension would be effective from midnight on the same day.

Suspension happens very quickly after the failure of the Default Notice. It is important that the ICRC has immediate access to you to provide briefings on progress, and the Retailer of Last Resort to provide information needed to effect the customer transfers and to the media when appropriate to provide information to customers. The ICRC will provide media information on the process, the Retailer of Last Resort arrangements and the process by which customers will be able to choose a new supplier. The ICRC will also be assuring customers that there will be continuity and security of supply. Statements may also be made by the Retailer of Last Resort about the process and transfers.

In the post suspension period, Government should expect market retailers to make offers to customers in the normal course of commerce.

A MEDIA AND INFORMATION CAMPAIGN WILL BE REQUIRED FOR THE ACT

Attached information

The ICRC has attached for your information draft media statements and briefings to assist in preparing for the management of a possible suspension.

Preparation

You will be advised as events develop. However, the ICRC draws your attention to the advanced preparation undertaken for this eventuality. The ICRC, in conjunction with NEMMCO, has run exercises on this process involving government and industry stakeholders, including the Department of Treasury. The ICRC has also circulated widely the information on this process, including the briefings and attached draft materials you are now reading.

Contact officer

The ICRC's contact officer for the coordination of the process is Ian Primrose, phone 62050779, mobile 04184 60616, fax 62075887 and e-mail on ian.primrose@act.gov.au. During this process contact may be made 24 hours a day.

7 DRAFT BRIEFING FOR COMMISSIONERS ON DEFAULT NOTICE

Commissioners

This is a general advice that the retailer about which I informed you yesterday has failed to meet the obligations imposed by NEMMCO in the Call Notice issued yesterday. Consequently I have been advised by NEMMCO that a Default Notice has been issued. The Default Notice has a deadline for response by the retailer of TT:TT DDMMYYYY.

As I indicated in yesterday's brief the issue of a Default Notice is unusual, retailers have in the past met their obligations in Call Notices. The indications are that the retailer is in a difficult position and the probability of retailer failure is now high and increasing.

In accordance with my advice to you yesterday I have briefed the Minister, his Department and the Retailer of Last Resort. I will advise them of this further development and put in place the next stage of preparation for retailer failure.

If the Default Notice conditions are not met by TT:TT DDMMYYYY I will be advising you that the suspension will be occurring. That outcome may occur by midnight tomorrow night.

8 DRAFT MEDIA STATEMENT ON SUSPENSION OF A RETAILER IN THE ELECTRICITY MARKET

At TT:TT am/pm today DDMMYYYY NEMMCO, the National Electricity Market Management Company (NEMMCO) announced that it has suspended XXXXXX from trading in the market. The suspension follows concerns about XXXXXX's credit rating and their ability to continue trading in the market as a going concern.

The suspension will take effect from midnight tonight, DDMMYYYY.

From midnight tonight customers of XXXXXX will be transferred to ActewAGL Retail as the Territory's Retailer of Last Resort.

The Retailer of Last Resort arrangements provide an effective means by which customers continue to be supplied with electricity while the retailer failure is managed. Customers are not required to do anything to ensure that there is continuity of supply, transfers will be made by NEMMCO and the Retailer of Last Resort. Customers affected by the failure of XXXXXX will be able to choose a new retailer of electricity at any time otherwise remain with the Retailer of Last Resort for up to 3 months. Customers can expect to receive offerings from other electricity retailers licensed in the ACT.

Importantly, electricity customers should note that while considering offers from other retailers their electricity supply will continue at a regulated price under the Retailer of Last Resort arrangements. The regulated price will be higher than alternative prices available in the market.

Advice on choosing a new retailer, prices and other information to assist customers make new choices, and about the management of the market generally, will be published over the next few days.

Information is available to assist customers from the ICRC on 62050799 or from the ICRC's website at www.icrc.act.gov.au, and from ActewAGL on XXXXXX.

9 DRAFT ADVICE TO THE RETAILER OF LAST RESORT

Dear XXXXXX

As the Territory's Retailer of Last Resort you may be called upon when there is a retailer failure under the National Electricity Code. I wish to advise you that there is a failure in progress.

As a market participant you are aware that when an electricity retailer's trading liability reaches 84% of their Credit Limit NEMMCO issues a Call Notice requiring certain actions to remedy that position. When a retailer fails to satisfy the conditions of the Call Notice within 24 hours of being issued, NEMMCO issues a Default Notice.

According to the ICRC's policy, once a Default Notice has been issued and the ICRC has been informed by NEMMCO the ICRC will advise the Retailer of Last Resort that a potential failure is in progress. On receipt of that advice the Retailer of Last Resort arrangements, which previously have been advised to you and tested with you, will commence. Subsequently if the retailer in default is suspended from trading the Territory's Retailer of Last Resort arrangements would need to be implemented urgently. While that stage has not been reached, a Default Notice has been issued and you need to begin to make preparations to transfer customer at short notice.

By TT:TT DDMMYYYY tomorrow you will be advised whether NEMMCO will suspend the retailer concerned. If that decision is made the ICRC will receive information on the retailer, the retailer's customers and their NMIs and loads. That information will be made available to you prior to the actual transfers that will take place at midnight. At this time you are advised that the average load concerned is XXXXXXMWhrs.

If the process now in train results in suspension, there will be little time to effect the customer transfers. You should make whatever preparations you deem necessary to assist in the speedy resolution of any problems.

Upon notice you should also prepare media statements for customers advising them about where to call for information and particularly to provide assurance that there will not be interruptions to supply. Those media statements should not be released until authorised by the ICRC.

It is essential that there is a clear contact point for coordinating the Retailer of Last Resort process within your organisation. The ICRC's records show that the contact person is XXXXXXXXXXXX who is contactable on XXXXXX. If that information is changed in any way it is essential that you advise me immediately of the new contact person.

The contact officer in the ICRC for this process is Ian Primrose, phone 62050779, mobile 0418460616, fax 63075887 or e-mail on ian.primrose@act.gov.au.

10 DRAFT ADVICE TO ROLR THAT SUSPENSION HAS OCCURRED

Dear XXXXXXXXX

In accordance with my advice to you on DDMMYYYY about the potential suspension of a Market Participant with customers in the ACT from trading in the National Electricity Market, I am informing you that NEMMCO has suspended XXXXXX from trading as from midnight tonight.

Consequently, as you are the Retailer of Last Resort in the ACT, I am advising you that XXXX's customers are to be transferred to you. The transfers will be effective from midnight tonight.

NEMMCO is issuing a media statement on the suspension from midnight, DDMMYYYY. Until midnight today customers remain contracted to XXXXXXXX. However, from midnight, suspension being effective, those customers will become your customers.

The Minister and the ICRC will also be making media statements. You should also make a media statement along the lines already discussed.

The transfer information is attached in written form and is available electronically. NEMMCO will test the transfer arrangements in the system at midnight to ensure that the transfers have been effected.

Yours sincerely

Ian Primrose
Chief Executive Officer
DDMMYYYY