



16 September 2008

Review of Regulatory Instruments
Level 2, 35 Spring Street
Melbourne Vic 3000

Email: EnergyRegulatoryReview@esc.vic.gov.au

Dear Sir/Madam

REVIEW OF REGULATORY INSTRUMENTS - STAGE 1 DRAFT DECISION

Origin Energy Retail Ltd (Origin) welcomes the opportunity to provide comments on the Essential Services Commission's (ESC) Review of Regulatory Instruments - Stage 1 Draft Decision.

While Origin was supportive of the intent of this review it was conducted with a variety of objectives under a complex framework in various work streams and therefore had difficulty in meeting our full expectations. Nevertheless, progress has been made in some areas of energy regulation that will remove duplication and simplify energy regulation.

In particular it is noted that the ESC has chosen to acknowledge proposed energy regulation under the MCE's National Energy Customer Framework (NECF) but only embrace it, in this review, where it does not have an impact on customer protection regulation. Origin hopes this approach is only due to the interim nature of this review and not an emerging trend of how jurisdictions will align with national energy regulation.

The introduction of a new regulatory instrument the Compliance Policy Statement for Victorian Energy Businesses, appears to be a contradiction to Objective 4¹.....

Examine whether the obligations in regulatory guidelines would be better placed in existing codes and whether existing obligations are appropriately drafted or unnecessarily duplicate other regulation.

It was Origin's expectation that the removal of the Wrongful Disconnection Procedures contemplated by the ESC in early workshops would result in some minor amendments to the Energy Retail Code. Instead a new instrument, the Compliance Policy Statement, is being proposed to cover wrongful disconnection and the assessment of fair and reasonable security deposits for small business customers. It is not clear what status this document will have with regard to compliance (is this a new guideline or is it regulation). It appears to be a new regulatory instrument that may not achieve the previously understood benefits of removing procedures and guidelines. Clarity is sought on this matter.

¹ ESC Review of the Regulatory Instruments - Stage 1 - Draft Decision 2.1 page 5



Specific Comments Related to the Draft Decision

1. Energy Retail Code

(a) Faults number on the bill

The draft decision is that clause 4.2(o) of the Energy Retail Code (ERC) will be amended to require reference to the distributor against the fault and emergencies line number.

The Commission however seeks stakeholder submission on whether this approach will assist in meeting the intended objective and on the cost implications for retailers, to inform its final decision.

Origin does not support the proposal to mandate the referencing of the distributor's name against the fault and emergency line number due to the following reasons:

- (i) A retailer's bill is a key branding medium in one of the most competitive energy markets in the world. The inclusion of the distributor's name will diminish the retailer's brand presence and quite possibly cause confusion for the customer. Space on a retailer's bill is extremely valuable in terms of marketing potential particularly when it already has a significant amount of regulated content to include;
- (ii) This proposal is not consistent with the National Energy Customer Framework covering information to be included on the bill. The ESC has made a point of advising industry that it has "*taken account*" of the national framework in this review;
- (iii) While SP AusNet has advised of the percentage of calls that are incorrectly dialled to their gas emergency number they have not suggested or implemented any alternative approaches to solving this issue independently. This issue may very well be a failing of SP AusNet's own promotional activities. Perhaps they should issue their own customer charter more frequently or provide customers with useful promotional items (branded with their fault or emergency number) that will remain in the home. There is no reason to suggest that a retailer's bill is the only way for a customer to find an electricity fault number; and
- (iv) The inclusion of this requirement would necessitate system changes with additional costs² incurred. It is also not appropriate that retailers should incur the cost of promoting a distributor's brand.

(b) Use of bill smoothing arrangements

The Commission is persuaded that more flexibility should be provided for retailers in this regard. The draft decision is to increase the reconciliation period to 9 months, rather than 12 months given that this is the maximum amount that retailers are allowed to recover if their bills to customers are inaccurate.

Origin supports the introduction of flexibility within bill smoothing arrangements suggested by this change; however Origin believes that the reconciliation period should be 12 months rather than 9 months. Twelve months is preferred as seasonal variances

² Origin would be willing to provide these indicative costs confidentially to the ESC



can be fully assessed after this period. The ESC appears to believe there is a link between the 9 month maximum undercharging period following a billing error and this provision. The reconciliation period under a bill smoothing arrangement is used to realign a customer's consumption with their payment arrangement. Furthermore Origin would also like to see this provision aligned with the NECF whereby this provision can be varied by agreement in market retail contracts.

(c) Undercharging

The draft decision is that retailers may only recover up to 9 months for amounts undercharged if the reason for the undercharging is due to a fault in the retailers' billing systems. In all other circumstances, they may recover up to 12 months undercharged, unless the undercharging arises as a result of meter access being blocked, or unlawful action, by the customer.

Origin does not believe that the ESC has substantiated any reasons why this clause should not be amended to exactly reflect the provision of the NECF. As such the clause should be amended to:

A retailer may recover from a customer any amount undercharged during the previous 12 months (unless the undercharging arises as a result of the fault or unlawful action of the customer, in which case the 12 month limitation does not apply).

The inclusion of two different allowed recovery periods in the event of undercharging, where these periods rely on assessment of the cause of the undercharge will introduce unnecessary complications in the process. The causes of error are rarely simple, and often multifactorial, and new chapters of guidelines would be required if two different recovery periods were set.

(d) Overcharging

The Commission agrees with the retailers that this approach is sensible and consequently the draft decision is to amend the obligation accordingly.

Origin supports the intent to align with the NECF and amend clause 6.3 of the ERC requiring retailers to notify customers of overcharging within 10 business days if the amount exceeds a threshold amount \$(50) otherwise the amount is to be credited on their next bill.

(f) Variations require customer's agreement

Based on these submissions, the Commission's draft decision is that the obligation in the ERC be redrafted to ensure that customer's agreement with contractual variations must be explicit and transparent.

Origin is very concerned with the prospect of clause 20 of the ERC being redrafted without actually seeing the proposed clause. Clause 20(b) clarifies that an individual price change does not require explicit informed consent provided it was prescribed that price changes would occur in the terms and conditions. Retailers must comply with Energy Product Disclosure Guideline 19 which states in clause 2.4(c).

Each product information statement must at least include an explanation of how the tariff and other fees and charges can change, if applicable;



Therefore energy customers would be clearly advised of this provision if it existed. It is difficult to comprehend how Consumer Affairs Victoria could suggest that it could exist in an obscure clause and not be evident to customers. Origin suggests that clause 20 of the code should **not** be amended.

Clause 13.4 Refusal to provide acceptable ID or refundable advance

The proposed national approach is that retailers do not have to connect a customer if they do not provide acceptable identification. This is significantly different to the current Victorian regulation, which requires retailers to connect and then disconnect if acceptable identification is not provided. In light of this, it is proposed to retain the obligation in the Victorian jurisdiction.

Origin cannot understand why the NECF's pragmatic approach to this issue is not adopted in Victoria. It is not unreasonable to request identification from a customer upon the establishment of an account and if requested, at this time, any eligible concession details can also be promptly processed. The alternative is the inefficient and relatively costly Victorian approach whereby connection is achieved without identification followed by the implementation of the extended disconnection process should identification not be supplied.

Origin urges the ESC to adopt the NECF approach. There is no evidence that customers would find this requirement to produce identification particularly onerous, noting that this is required in almost all government and commercial transactions with these same customers.

2 Guidelines and Procedures

Gas and Electricity Credit Assessment Guidelines

The Commission proposes to repeal these guidelines and place any necessary regulation in the ERC. The detailed draft decision can be found in Appendix B.

Origin supports the revocation of Guidelines No 1 and 4.

Compensation for Wrongful disconnection - Operating procedure

The draft decision is to repeal the Operating Procedure: Compensation for Wrongful Disconnection. Notwithstanding, the Commission considers that there is information in the procedure which assists relevant parties to comply with the relevant regulation. This information will be retained in the Compliance Policy Statement for Victorian Energy Businesses.

Origin supports the removal of this operating procedure but as mentioned above it is unclear as to what sections of the existing procedures will be replicated in the replacement Compliance Policy Statement.

Bulk Hot Water Charging Guideline

The Commission's draft decision is to repeal this guideline because the responsibility for setting the formula has been transferred to DPI. The remaining obligations which are contractual will be included in the Energy Retail Code.



Origin supports the removal of the Bulk Hot Water Charging guideline.

Confidentiality and Explicit Informed Consent

The Commission supports these submissions. The draft decision is that only relevant regulation on informed consent will be retained and placed in the Marketing Code of Conduct.

Information which may be helpful to consumers and retailers, for example, the operation of the Privacy Act in regard to the use and disclosure of information, will be provided on the Commission's website as fact sheets.

Origin supports this approach.

3 Electricity Customer Metering Code

Electricity Customer Metering Code

The Commission agrees with the distributors that the ECMC should not overlap the NER and the NEM Metrology Procedure. The Commission will remove from the ECMC technical and market issues that are contained in the NER and the NEM Metrology Procedure and will restructure the ECMC to combine the metering installation requirements for the first and second tier customers.

Origin supports this approach.

Should you require any further information regarding this submission please do not hesitate to contact Randall Brown on 03 9652 5880.

Yours sincerely

A handwritten signature in cursive script that reads "B J Hughson".

Beverley Hughson
National Regulatory Manager Retail