



1 August 2013

Mr Stuart Slack
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

By electronic lodgement

National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure) Rule 2013

Origin Energy (Origin) welcomes this opportunity to respond to the Australian Energy Market Commission's (the Commission's) consultation paper on the proposal to extend the current jurisdictional derogation supporting exclusivity of meter provision to small customers by local network service providers (LNSPs).¹

Consistent with Origin's long-held preference for contestable meter provision and associated services, we do not support an extension to those elements of the current (and proposed) derogation relating to exclusivity. While Origin notes that the Commission has effectively been asked to narrowly assess the merits of the complete expiry of the existing derogation against its extension for three years, we believe alternatives should (and in our view can) be considered between these two extremes. In particular, the continuation of certain elements of the existing derogation (namely, classification of advanced metering infrastructure [AMI] installations as type 5 remotely read meters) would eliminate many of the concerns raised by the Victorian government in its rule change request as submitted to the Commission.

In absence of such a compromise, Origin believes the existing derogation should expire. There is no evidence to support the impacts of the costs and benefits of the Victorian AMI roll out suggested in the rule change proposal, and expiry would simply align Victoria with other National Electricity Market (NEM) jurisdictions (where contestability of type 3 and 4 meters for all customers applies in full today for all customers).

We do not believe there is sufficient evidence presented in the rule change request that would justify a further derogation from the National Electricity Rules (the NER). With respect to Commission's assessment framework, we consider that the requested rule change will not advance the National Electricity Objective (NEO), nor is it supported by the provisions of Section 89 of the National Electricity Law (NEL).²

The current derogation has been in force since 2009. While Origin is disappointed that no progress has been made to address the issues identified as concerns in the current rule change proposal, it is important to recall that a chief purpose of the existing derogation was to provide investment certainty for distribution businesses during the course of the AMI roll out, which is now substantially complete.

¹ In this response the terms "LNSP" and "distributor" are used interchangeably as are the Terms "AMI" and "smart meters".

² In fact it conflicts with the principle that the derogation continues existing regulatory arrangements; the requested rule and existing derogation both materially depart from chapter 7 of the NER.

We believe that relying on the development of national processes as a mechanism to transition away from exclusivity of small customer meter provision farms out the question of the removal of exclusivity to an external forum that is in its early stages and will not resolve the concerns identified in the rule change request in the near future (even if these were material). As such, Origin is concerned that limited progress will be made between now and 2016 and on this basis there will be a need to extend the derogation yet again. In fact, our submission on the original derogation (made in January 2009) forecast the current rule change request extending the derogation and the nature of some the arguments that would be applied to justify this:

Origin has repeatedly presented arguments as to why contestable AMI would not degrade competition in the retail market (and more likely would enhance it) and we are concerned that similar arguments will be presented as the period of exclusivity reaches its end to justify the extension of monopoly provision of AMI to small customers, without any supporting evidence.³

Meter churn and its potential impacts on competition has been highlighted time and again as a reason to prevent the reintroduction of meter contestability. Origin has had commercial experience of this issue outside of Victoria with respect to small customers for a number of years and the reality is that the presence of third party metering has neither impacted on competition nor has it resulted any significant churn of meters. Origin would encourage the Commission to examine recent experience in New Zealand with respect to customer switching (among retailers) where third party contestable smart meters are present. Echoing experience in Australia (but on a greater scale with respect to small customers), economic and commercial realities have limited meter churn on change of retailer and the market has responded in a common sense way, notably in an environment of limited regulation relative to that applying in the NEM.

Origin also believes that the existing consumer protection regime supports the expiry of the derogation. Retailers will remain subject to the Energy Retail Code and the consumer protection framework, which is sufficient to manage smart meters deployed in Victoria at present. In short, there is no erosion of consumer protections associated with not making the requested rule change.

The majority of the concerns raised in the rule change request concerning the risks on the Victorian AMI program's costs and benefits are immaterial or can be managed under the current NER (in particular chapter 7) and commercial arrangements between market participants. Retailers and Energy Retailers Association of Australia (ERAA) have previously communicated reasons supporting this view to the Victorian Department of Sustainable Development, Business and Innovation (DSDBI, formerly the Department of Primary Industries). Furthermore, Origin does not believe the number of third party meters deployed in Victoria will be significant should the exclusivity provisions of the derogation expire at the end of 2013. Their reintroduction would however assist any transition to more widespread smart meter competition and allow industry the opportunity to improve processes as required while simultaneously offering choice to customers and providing a platform for further innovation.

Origin would encourage the Commission to also consider previous submissions made by Origin, other retailers and third party meter providers on the original derogation application in 2008.

³ See Origin's first submission (in November 2008) to the Commission's *Draft Rule Determination - National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out) Rule 2008* <http://www.aemc.gov.au/Media/docs/Origin%20Energy%20-%20Received%2013%20November%202008%20-f705c079-4f88-4f41-a279-61eed7d80cc8-0.pdf>

Specific comments on the rule change request and the issues raised for consultation by the Commission are set out below. Origin would welcome further discussion with the Commission on any matters raised in this response. Please contact me in the first instance on (03) 8665 7712.

Regards

David Calder
Regulatory Strategy Manager
Retail
(03) 8665 7712 - David.Calder@Originenergy.com.au

Question 1: Costs and benefits

1. Are the costs and benefits provided in Table 1 of the rule change request appropriate estimates of the range of possible outcomes?

The overwhelming majority of costs described in table 1 of the rule change request relate to the impact of meter churn when customers change retailers. There is no evidence presented to support this estimate (other than best guesses from industry) and the likelihood of routine meter churn on change of retailer is not plausible on a commercial basis. In the unlikely event meter churn does take place, the costs incurred are primarily private in nature- the incoming retailer will either absorb the cost of meter replacement, or the customer will agree to pay for the replacement, presumably only if there are significant and demonstrable benefits to them.

Furthermore, the data in the table seems to confuse the replacement of distributor operated meters (AMI) with third party meters on a change of retailer versus the replacement of third party meters with another third party meter on a change of retailer. Putting aside the fact that distributors are paid an exit fee covering the unamortised cost of the device for its regulated life under the Cost Recovery Order in Council (CROIC), the assumption that distributor operated AMI is replaced in anything approaching the numbers described in the rule change request is implausible. It is more likely that third party meters will be installed in specific circumstances, identified as “carve outs”, described in Origin’s submission when the derogation was initially proposed.⁴ These include:

- Newly connecting small customers (less than 160MWh per annum in consumption);
- Small to medium enterprises seeking a single meter provider as part of a national tender (for example);⁵ and
- For customers who are prepared to seek additional services (whether they cost more, less or the same as an AMI meter) and explicitly agree to such an arrangement.

For green field sites, there is not existing meter, so there would be no exit fee to pay.

In addition, it is unclear what assumptions formulate the basis for the ongoing \$150 annual cost of meter replacement (this figure underpins the significant cost listed in row two of table 1 in the rule change request).

In short, the quantum of costs identified should the existing derogation expire dramatically decrease if meter churn is discounted (as it is extremely unlikely) or the number of existing AMI meters are replaced by third party type 4 metering (also unlikely). We believe these costs have been over estimated and that items two and seven set out in table 1 (the vast majority of costs associated with the expiry of the derogation) are sensitive to assumptions made that in our experience do not reflect commercial decisions made in contestable metering markets. The likely range of costs in our view associated with these two items is a very small fraction of the estimate provided and close to zero

⁴ See page 1 of Origin’s supplementary submission to the Commission’s Draft Rule Determination (2008): <http://aemc.gov.au/Media/docs/Origin%20Energy%20-%20Received%208%20January%202009-fea71f7c-c0c0-4971-981e-d955bb078058-0.pdf>

⁵ One effect of the current derogation is to prevent large customers with small sites (less than 160MWh per annum) seeking a single national meter provider and meter data provider. Other NEM jurisdictions allow this choice, but in Victoria, the LNSP is the only choice of service provider for small sites.

Other costs listed are also influenced by the number of churning meters, including reduced benefits associated with the introduction of flexible pricing and network operational efficiencies not being realised. For reasons described above, these costs are also likely to be at the lower end of the range provided or negligible.

With respect to flexible pricing, Origin is doubtful that the expiry of the exclusivity provisions of the derogation will have any impact on the benefits associated with its introduction. The customers most likely to accept a competitive meter services offer will be sophisticated enough to distinguish between flexible pricing issues and benefits that might be associated with an alternate meter and meter services provider. It does not seem at all likely that any retailer or third party market participant would widely advertise (for example in the mass media) from the expiry of the derogation that choice of meter services is now available, or that this would subsequently confuse customers considering flexible pricing offers. Finally, flexible pricing will have been in place for some time at the expiry of the current derogation. As such, consumers will have familiarity with concept and will be able to distinguish between this and competitive meter services.

In our view (and as a participant in the retail market actually responsible for delivering flexible pricing), the likelihood of that benefits associated with flexible pricing will be compromised if meter contestability is allowed is extremely low and the associated societal costs near zero.

It is unclear what specific business to business (B2B) processes would be required ahead of the existing derogation's expiry. The matters raised on page 15 of the rule change request imply that "new" processes are required to support third party metering. The current NER and metrology procedures support the provision of third party meters to small and large customer sites and in Origin's view, new or fully automated procedures do not need to be developed in order to support the expiry of the existing derogation.

Our experience in Victoria and other NEM jurisdictions bear this out (with respect to small customers):

- Origin's service provider installed around 3,000 type 4 meters from 2008 under the Adelaide Solar Cities program;
- Smart meters are being installed by Ausgrid and Energy Australia as part of the Smart Grid/Smart Cities project;
- A number of distributors in New South Wales deployed smart meters when they were stapled to a retail business; and
- Origin and other retailers had installed type 4 meters for domestic customers before the current derogation commenced in 2009.

Most of the B2B relationships in a contestable metering environment are between the responsible person (RP) and their meter provider (MP) and meter data provider (MDP). The Australian Energy Market Operator's (AEMO's) systems support these relationships at present and in other NEM jurisdictions, there has been no deficiency found with respect to these processes requiring changes of the kind described on page 15 of the rule change request.

Finally, retailers have had advice from Energy Safe Victoria that remote energisation and de energisation can take place where a third party provides a smart meter (following the established industry protocol). In addition, interval reads and remote data acquisition are a fundamental requirement of the meter type retailers would be permitted to install as RP. As such, we do not believe the matters identified in the rule change request would result in a reduction in service levels or functionality for end-use consumers choosing an alternate provider of services, rather there is the opportunity that service levels could improve.

2. Are there other costs and benefits that should be considered?

The benefit to large customers who have small consumption sites being able to deal with a single meter provider nationally is ignored in the rule change request. The requirement that customers must use a separate metering provider for these sites in Victoria (and only in Victoria) is administratively burdensome for market participants, energy brokers and the customers affected.

Another benefit that has not been accounted for is the acceleration of AMI benefits that would occur through the improved capacity of retailers and third parties to negotiate with LNSPs to access new services if there were credible alternatives and competitive tension that would be supported by the expiry of the derogation. A number of AMI benefits assumed over consecutive cost benefit studies of the Victorian AMI program have been delayed. The expiry of the derogation would help slow further delays should alternatives become available or encourage further innovation from distribution businesses.

3. How would the performance of distribution business and retailers in installing and managing meters compare in a competitive environment?

Distributors are subject to the Victorian AMI Functional and Service Level Specifications and the Distribution Code (in addition to the NER and the metrology procedures). The comparison the Commission is describing is between the LNSP as RP and service provider and a third party as service provider. Retailers as the RP will require their service providers to meet the requirements under their accreditation with AEMO and it is doubtful that this performance would be at a lower standard than that associated with the LNSP's fleet of AMI. It is likely that a retailer or third party seeking to engage a competitive service provider (which may be an unregulated business of a distributor) will seek additional services and functionalities and at service levels at least equal to those provided through conventional (regulated) smart metering. Commercial reality suggests that customers are unlikely to pay for a reduced level of service.

There are established competitive MPs and MDPs that have been operating for many years in the NEM and whose experience includes the provision of services to small customers. The entry of new competitors may have the effect of improving service levels over time; it is difficult to see how such an outcome would reduce service levels.

4. If Victorian-specific arrangements have to be developed because the rule is not made:

- (a) Would such arrangements tend to limit the loss of benefits from the AMI program?
- (b) Are such arrangements likely to prevent inefficient meter replacement?

As discussed above, Origin does not consider that in the short to medium term, separate Victorian specific arrangements are required (just as they are not currently required in all other NEM jurisdictions without the derogation of the kind in force in Victoria at present).

With respect to question 4(b) and noting the promulgated future role of the Metering Coordinator as recommended by the Commission in its *Power of Choice* review, for the foreseeable future, Origin does not believe current processes would result in inefficient meter replacement. What has continually surprised retailers and others with an interest in competitive meter provision is the

persistence of the view that routine meter replacement will occur in competitive electricity retail markets. This view is often put by those who do not bear the competitive risks or costs of such activity and yet retailers (who do face this risk directly) have consistently indicated systematic meter churn is commercially unviable. Historically Origin has found that there has been excessive weight placed on unsubstantiated arguments that chaotic and routine meter churn will occur, often promoted by those who will not face this risk, while retailers will face these risks and have discounted it.

Question 2: Efficiency impacts

1. What are the likely impacts on:
 - (a) Retail competition?
 - (b) The uptake of flexible pricing by consumers?
 - (c) Competition in metering services?
 - (d) Innovation in metering and metering services?

In response to question 1(a) Origin considers that the expiry of the existing derogation will increase retail competition and offer retailers and third parties the incentive to innovate, years ahead of what would take place if the derogation is extended (where there is the possibility it will simply be further extended). There are reduced incentives for retailers to invest at present with respect to improved or alternative services given the regulated environment that metering services are currently subject to.

Question 1(b) asks if the expiry (or continuation) of the derogation will impact upon the uptake of flexible pricing by customers. The continuation of the derogation will again reduce the incentive of retailers and third parties to invest in services that may enhance flexible pricing options and products made available to consumers. This risk far outweighs the unlikely scenario that customers will be confused by the introduction of flexible pricing and choice of meter services, again noting that there will be sometime between these two events taking place. Customers are managing the introduction of in home displays (IHDs) at present, with the simultaneous promotion of flexible pricing by the Victorian Government.

Clearly (in response to question 1(c)) competition for metering services will be enhanced if the derogation expires and will remain dormant if it continues. Service providers inactive in Victoria at present due to the derogation will be encouraged to re-enter the market if it expires.

Similarly, innovation in metering and meter services will improve should the derogation expire. The fleet of AMI meters have been installed at a majority of small customer premises and allowing competition again in Victoria would support initiatives and market-based innovation that would support development toward the next generation of smart meters (likely required by 2020-25). Extending the derogation would deny Victorian customers and industry this opportunity and delay the benefits of innovation, including demand side management initiatives that may be enabled by alternate service providers.

2. Are there processes and systems that could be implemented in Victoria to improve third party access to metering data and metering services, thereby encouraging innovation?

The chief barrier to third party participation at present is the derogation itself. Without choice of supplier and competitive tension, third parties have limited ability to seek the services they require or influence the terms or cost of access. Third party access is most constrained in Victoria (of all the NEM jurisdictions) because of the derogation; its expiry and the development of national processes are the best mechanisms to support third party services and innovation. In some ways this is a broader question than the continuation or expiry of the derogation in Victoria.

3. Are there other efficiency impacts that have not been considered?

Allowing the derogation to expire will materially improve the long-term (scale) economics of competitive meter provision for small customers, which at present is hampered by the absence of Victoria in this (national) market place. An expiry of the derogation would also provide incentives for LNSPs to further participate in competitive meter service provision and to gain experience in contestable meter provision for small customers, likely to be the common market structure in the next ten years. Extending the derogation does not encourage Victorian LNSPs to explore such opportunities or facilitate innovation among competing service providers.

Question 3: Impacts on consumer confidence

1. What impacts on consumer understanding and confidence would result from not making the derogation, given the additional amount of change that it might create?

As Origin has stated elsewhere in this response, the uptake of third party provided meters following any expiry of the current derogation (and not making the requested rule change) is likely to be characterised by extremely small and targeted commercial deployments aimed at offering specific services and to build capacity among service providers. The vast majority of customers are likely to be unaware of the change and it will only be communicated to small consumers in the form of a direct offer (to which they would consent to accepting, or decline).

For some customers, not making the requested rule change would be of personal benefit if they wished to actively pursue alternative services and offers. No estimate has been placed on the costs associated with the lack of choice for small consumers (since 2009), or the cost of extending this for a further three years.

2. What would be the costs of effectively engaging with consumers to communicate the additional change and maintain confidence in the market?

Origin would suggest that the change is not “additional”; the expiry of the derogation simply returns Victoria to a state where its arrangements are consistent with those currently in place in other NEM jurisdictions (including existing B2B arrangements).

Communicating with customers should be the task of market participants (for example, retailers and third parties making offers that include competitive metering services). Should contestable meter provision be supported from 2014, we believe the likely small number of meters deployed would not require a government communications plan (and associated cost), but would be best delivered by those offering services. Over time, the need for government communications may arise (and may

be rolled into a broader national engagement plan), but for at least the period covered by the requested rule change, we do not believe this is necessary.

3. Are there other impacts on consumer confidence that have not been considered?

Origin believes that there are some small and specific segments of customers who enjoy greater confidence (via choice of metering services) following the expiry of the current derogation, and far from being confused, would embrace any innovative offers made to them. These would include customers in the situations described on page 3 of this response above. The expiry of the derogation could be characterised as resulting in indifference for most customers (the majority of whom will already have a distributor provided AMI device installed at the beginning of 2014) and a minority of customers who will welcome alternative products and services. Over time, increasing numbers of customers are likely to consider and be engaged in competitive meter services.

Question 4: Duration of the derogation

1. Is it appropriate to link the duration of the derogation to the establishment of the national framework for competition in metering and associated services?

Origin believes linking the duration of the requested rule change to the establishment of a national framework for competitive metering provision and meter services is inappropriate. The existing derogation has been in force for almost five years and is now proposed to be extended for another three. By the time it expires, Victorian consumers will have been denied access to competitive meter services for more than half the period between expiry (2016) and the commencement of full retail contestability in 2002.

As suggested in our response to the Commission's draft decision in 2008, Origin suspects the exercise currently underway to extend the derogation will simply be repeated in mid-2016 due to the potential that limited progress is made at the national level in this time. In any event, Origin considers that the best mechanism to transition to future national arrangements in relation to competition in meter provision and services is to allow the same rules to apply in Victoria that are currently in force in the remainder of the NEM states and allow the current derogation to expire as planned without making the requested rule change.

2. Is three years an appropriate duration in the event that the national framework is not established by that time?

As discussed in response to question 1 above, while Origin is not confident the national framework will be ready in 2016/17, the need to apply the requested rule change is unnecessary given that there is likely to be a limited number of customers offered competitive meter services initially. However, this activity will have the benefit of supporting capacity building and experience ahead of the implementation of national arrangements. It would also align the NER as it applies in Victoria with the provisions applying in other NEM jurisdictions today.

3. Are there other considerations that should be taken into account?

Given that the rule change request does not explain how existing B2B procedures and chapter 7 of the NER do not adequately support competitive meter provision and services in other NEM jurisdictions, Origin believes the expiry of the current derogation presents Victoria with an opportunity to trial third party meter provision on a small scale, build capacity to transition to national arrangements, enhance incentives to innovate and encourage new market participants to offer services across all NEM regions.

Other comments on the Rule Change Request

Origin would wish to make some specific comments on matters raised in the rule change request.

On page 16, there are some statements about the joint development of meter functionality and service levels. While there are an existing set of minimum set of regulated service levels, it is not correct to claim these reflect the preferred outcome of retailers at that time. In 2008, the service levels available were significantly reduced to the four available today (remote energisation and de-energisation, reading data on 30 minute intervals and remote delivery of this data based on a performance level). All other services that may be enabled by the meters based on their native functionality need to be negotiated bilaterally.

In Origin's experience, while the Victorian distribution businesses have demonstrated a willingness to engage with retailers around the delivery of enhanced AMI services, retailers and third parties have limited bargaining power to influence the delivery of these new services and the terms under which they are supplied. As such, we would challenge the assertion that not extending the derogation would result in limited innovation and development of new services. Encouraging competitive tension between meter service providers and data providers will deliver an increased range of services to their customers (end use customers, retailers and third parties) at competitive market rates.

Also on page 16, there is a conclusion that exit fees will act as a barrier to third party meter provision. If this is the case, the need to extend the derogation is unclear - even if a third party provider replaces an existing AMI meter, the distribution business will be kept whole as the purpose of the exit fee is to compensate them for the investment in a particular meter and services associated with it.

The Commission's assessment framework

Origin understands that the Commission will consider the rule change against the National Electricity Objective (NEO). Origin notes the following in response to a selection of the considerations the Commission will have regard to in assessing the rule change request described in this section:

- *The costs of establishing Victorian-specific arrangements to enable small customer metering competition*

Origin does not believe that it is necessary to develop these arrangements for the small number of contestable meters likely to be deployed and the fact that no other NEM jurisdiction requires such arrangements, but they do support small customer metering competition.

- *The extent to which the benefits from the Victorian AMI program are preserved if distribution business exclusivity for AMI meters is continued*

Origin believes the impact of competition will have immaterial impacts on the benefits of the AMI program and for reasons set out above, may increase or accelerate these benefits.

- *Impacts on security and reliability of supply*

Third-party metering poses no impact on the security and reliability of the distribution network.

- *Impacts on retail competition*

As mentioned previously in this response, energy retail market competition is likely to be enhanced by removing the restriction imposed by the current derogation and will foster innovation.

- *Impacts on the uptake of flexible pricing by consumers/Impacts on consumer confidence and engagement, noting the potential impacts of having multiple arrangements in a relatively short space of time*

Again, Origin believes that the expiry the current derogation and not making the requested rule will have no impact on the roll out of flexible pricing or the level of consumer confidence. Extending the derogation will limit innovation and customer choice for a further three years.

With respect to the proposed duration, the assessment of the duration of the requested rule change on the development of national processes or Victorian-specific arrangements in Origin's view is unnecessary. This absence of any similar arrangements in other NEM jurisdictions who do allow metering competition for small customers is further evidence that making the requested rule is not required.