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Review of regulatory arrangements for embedded networks—Draft Report

Origin Energy (Origin) welcomes this opportunity to respond to the Australian Energy Market Commission's (the Commission) Draft report on the Review of regulatory arrangements for embedded networks.

Retail licences for embedded networks

As a retail business, Origin is involved in servicing residential customers on behalf of Owners Corporations for large strata developments. In this capacity, Origin has been engaged to act as the FRMP to the parent meter and to be the embedded network operator (ENO). In doing so, we have also worked with developers to provide a range of energy management solutions for embedded network developments. This includes offering renewable energy and distributed generation, on-site storage, and electric vehicle charging to parent and child customers. The attractiveness of this suite of products is transforming the embedded network market into a more sophisticated product and service offering than has traditionally been the case.

The Commission's Draft Report recommends significant changes to the regulatory framework for embedded networks. With respect to residential customers, Origin believes that this is appropriate given the evolution of embedded networks towards an increasingly popular solution for strata title developments. When acting as an ENO for strata developments, Origin is subject to the regulatory requirements of its retail licence rather than the exempt seller regime. The National Energy Retail Law (NERL) and the AER's Exempt Seller Framework require organisations that sell energy as a core part of their business, and make a profit from the services they offer, to operate under an energy retail licence. This clearly applies to Origin when acting as an ENO and we believe that it equally applies to several other organisations that seek to make a profit from acting as an ENO.

In our submission to the Commission's Consultation paper, Origin expressed the view that not every business in strata developments, or residential embedded networks, should be subject to a licensing requirement. Where an ENO is not primarily in the business of selling energy, or deriving a profit from that activity, Origin's view was that light handed regulation may be preferable where customers are genuinely benefiting from the bulk purchase of energy. However, we accept the Commission's analysis that the current two-tiered regulatory framework can result in equivalent customers and businesses having different protections and legal obligations without appropriate circumstances to justify that state of affairs.¹

¹ AEMC, *Review of regulatory arrangements for embedded networks, Draft Report*, 12 September 2017, p. 36.

Accordingly, Origin supports the Commission’s recommendation to require businesses that sell energy on embedded networks to apply for licences in the first instance. We believe that there is still a role for the exemption regime to apply but, as the Commission suggests, that ought to be where appropriate circumstances demonstrate that these customer relationships are different.

The Commission proposes to grandfather legacy embedded networks “under their existing exemptions with some modifications to exemption conditions and AER functions and powers.”² Origin believes any modifications to these exemptions should make exemption conditions, particularly concerning customer protections and metering obligations, as equivalent as possible to those that will apply to retailers on future embedded networks. The Commission’s approach is otherwise a practical way of resolving the difficult problem of raising standards across the industry.

Better consumer protections for new and legacy embedded networks

As stated above, Origin’s overall view is that customers should be able to access equivalent levels of customer protections unless their circumstances are different. We also believe that legacy embedded network customers ought to be, as much as reasonably possible, afforded the same level of consumer protection as new embedded networks. We address the Commission’s recommendations on consumer protections below.

Proposal	Origin’s response
The AER, Ombudsmen and jurisdictional governments continue to develop required changes to the retail exemption guidelines and state regulations to increase access to independent dispute resolution services for exempt customers.	Origin agrees with this. The issue will be determining a fair arrangement for funding so that retailers are not cross subsidising other exempt parties.
Jurisdictions should consider options for improving awareness of entitlements and concessions and access to these for embedded network customers.	Origin agrees.
To facilitate greater transparency of activities within embedded networks related to exempt customers, the NERL should specify a role for the AER to monitor embedded network service provider and exempt selling behaviour. Such a role should include flexibility so that the AER can examine the conduct of particular sellers as required. In the interim the AER should consider how monitoring can be increased under its current functions and powers. The AER should also consider whether the reporting requirements under the exemption framework should be increased.	Origin agrees that appropriate monitoring and enforcement of embedded networks will produce more reasonable customer outcomes. We will reflect on any rule proposal when we see more detail, but acknowledge the AER may need additional powers to enforce their Guidelines.
Review the penalty amounts for infringement notices and act upon previous COAG Energy Council work in this area.	Origin will comment on any review as it arises.
Enforcement options for network exemption breaches, including breaches of conditions, should be more closely aligned with the	Origin agrees; this ensures a level of consistency between legacy and new embedded networks.

² Ibid, p. 50.

enforcement powers for retail exemption breaches.	
Consider the costs and benefits of extending the requirement on designated retailers (i.e. local area retailer in most circumstances) to provide a standing offer to include embedded network customers, or alternatively whether another party could take on the obligation to offer.	Origin agrees with this.
<p>Make the NERL/NERR work for retail customers in embedded networks, including by addressing the following consumer protections:</p> <p>(a) Consider extending the standing offer price cap for exempt customers to cover retail customers in embedded networks as well.</p> <p>(b) Amend the NERR to align the de-energisation and re-energisation rules for retail customers in embedded networks with standard supply customers.</p> <p>(c) Amend the NERR to align the life support rules for retail customers in embedded networks with standard supply customers.</p>	<p>Origin supports the price cap in principle. However, the requirement to make a standing offer available, when our embedded network offer is much better the likely standing offer, does not make sense. The price cap should ensure that the customer does not pay more than is necessary.</p> <p>Origin agrees with (b).</p> <p>Origin agrees with (c), noting the Commission's rule change on this issue.</p>
<p>Improve information provision by:</p> <p>(a) Amending the NERR to require authorised retailers to provide additional information and obtain explicit informed consent prior to a customer entering an embedded network or other non-traditional selling arrangements. The AER should update the exemption guidelines to reflect that change.</p> <p>(b) Jurisdictional governments should consider whether there is sufficient provision for disclosure of the cost, benefits and risks of embedded networks in state based laws at the time of purchase or lease of a property.</p> <p>(c) Authorised on-selling retailers be required to publish their prices in line with other authorised retailers, though the AER should have some flexibility to exempt some parties from inappropriate obligations.</p> <p>(d) Many exempt sellers should also be required to publish price information to allow customers considering moving into an embedded network an informed choice and to allow greater monitoring of exempt selling activity. The AER should consider whether some embedded networks should be exempt from this requirement due to their size or nature.</p>	<p>Origin agrees with (a). We currently obtain explicit informed consent from customers where we are an embedded network operator. We believe that explicit informed consent should also be obtained prior to a customer entering an on-market contract from an embedded network.</p> <p>Origin does not agree with (b). We believe that if customers are aware they are leasing or purchasing on an embedded network then that is sufficient. The commercial benefits and costs are up to developers. It may stymie more innovative offers being developed that combines a range of price and non-price options (such as sustainability which customers may be willing to pay more for).</p> <p>Origin agrees with (c) and (d) if they are done together.</p>

The embedded network service provider (ENSP)

In our submission to the Commission's Consultation paper, Origin expressed the view that a class exemption ought to apply to network activities in strata developments. This was on the basis that,

other than the installation of a parent meter, there are no apparent technical differences from a network perspective between a private and public network for strata buildings. Accordingly, no additional regulatory requirements should apply.

However, following the Draft Report, Origin recognises that the creation of a new registered entity (the embedded network service provider (ENSP)) is an appropriate regulatory response. Origin agrees that all regulatory bodies should be governed by the same legal framework. It would not be appropriate for the network component of embedded networks to be governed by AER guidelines whilst the retailers are subject to energy market rules set by the Commission.

In terms of the ENSP's obligations, Origin believes that the current Network Service Provider Registration Exemption Guideline is an appropriate place to start; the relevant embedded network obligations could equally apply to ENSPs. This will help to create consistency between existing exempt networks and new embedded networks. Origin also believe that the new ENSP role should also be focused on supporting customer protections (for example, life support and dispute resolution) and metering obligations (for example, requiring market compliant Type 4 metering with a registered Metering Provider and Metering Data Provider). This will ensure that customers on strata title embedded networks are provided with equivalent protections to those who are on the distribution network.

The Commission has singled out several general areas that the ENSP will required to comply with, including:

- participation in the NER dispute resolution process under clause 8.2 of the NER;
- confidentiality obligations with respect to confidential information;
- reporting requirements as determined by the AER; and
- an obligation to pay any participant fees to AEMO.³

Origin believes that these are reasonable areas for an ENSP to have regulatory obligations.

However, Origin would not like to see some of the obligations that apply to regulated networks transposed into the ENSP role as they are disproportionate to the requirements for operating and embedded network. An example of a disproportionate obligation includes the distributor obligations around maintaining electrical infrastructure. As we mention above, the electrical infrastructure of a high-rise building is the same regardless of it being an embedded network or not. We would therefore expect that there would be no distribution obligations attached to the ENSP with respect to this infrastructure.

Elevating embedded networks into the national framework

Specific issues that arise from the creation of a new regulatory regime are addressed in further detail below.

Where an embedded network customer goes on-market by accepting a market offer from an authorised retailer outside of the embedded network, that retailer becomes the financially responsible market participant for the child connection point and appoints a Metering Coordinator consistent with the NER arrangements for embedded networks from 1 December 2017.⁴

Origin supports this if minimum metering standards continue to apply to all legacy embedded networks not just new ones. In a competitive market, Origin and other retailers will not want to assume the role of

³ Ibid, pp. 84-85.

⁴ Ibid, p. 80.

retailer where there is non-compliant meter. It could also create a barrier to entry for customers on non-compliant meters if they must purchase a new meter just to access a competitive retail offer.

Where an ENM is appointed (i.e. 30 or more customers), all child connection points will need to be assigned an NMI regardless of whether they are on or off market and registered in MSATS. The ENM will be responsible for this.⁵

Origin supports the AER's current rule, which does not require meters to be discoverable on MSATS until a customer churns. Origin does not consider a meter not being discoverable on MSATS to be a barrier to customer churn. As long as the meter is NEM compliant, and has an NMI allocated when requested by the customers preferred retailer, an ENM is obliged to allocate an NMI to another retailer in a timely fashion.

What we are concerned about is unintended consequences of customers churning. A customer may be churning from an embedded network unaware of the conditions of the retail arrangement they are entering. The possibility of receiving two bills, the potential for obtaining a less favourable product and interruption to supply due to change of meter are all issues that may arise as a result of requiring an NMI and MSATS registration for all these customers.

In terms of receiving two bills, Origin acknowledges that the Commission is reducing this likelihood. However, unless there are bilateral arrangements between each ENO and each retailer for the settlement of network charges, the potential for two bills cannot be eliminated.

Another example could be an interruption to supply resulting from a meter change where the new retailer in their capacity as Metering Coordinator (MC) allocates a new Metering Provider to upgrade the meter in line with metering specifications.

Finally, the benefits of embedded networks are not just price dependent. In Origin's case, these customers are on evergreen products that reflects a very good price without any requirements for discounts (which means there are no conditional pay on time discounts). Customers are entitled to make this decision and exercise this choice. However, if this approach is adopted by the Commission then there must be an opportunity to implement a customer conversation (or a 'save call') so that the retailer can explain the benefits of the embedded network offering. The current restrictions around ring fencing of the Embedded Network Manager (ENM) functions from FRMP do permit this activity. An exception ought to be permitted where a retailer is both an ENM and FRMP and wishes to contact a customer when they have been flagged as transferring in MSATS.

The AEMC recommends the obligation to appoint a Metering Coordinator be extended to authorised retailers of off-market embedded network customers.⁶

Origin is presently undertaking the relevant processes to become an accredited ENM. If NMI's are discoverable then appointing an MC for these customers makes the ENM function largely obsolete. All that remains is an ENM for embedded networks of less than 30 customers, where a customer chooses to churn. Following the creation of the ENM role, Origin has taken considerable time and effort to become accredited as an ENM, only for it to potentially be largely defunct where there are more than 30 customers (which will be most of the planned high rise developments in the capital cities given their size and scope).

⁵ Ibid, pp. 82-83.

⁶ Ibid, p. 80.

Retailers of an on market embedded network customer to pay the ENSP a network tariff that is equal to the standard published LNSP network tariff that would apply if there was no intermediate embedded network.⁷

Origin supports this given it provides a reasonable benchmark of an appropriate network tariff.

Closing

Should you wish to discuss the contents of this response, please contact Timothy Wilson, Manager, Regulatory Policy, on (03) 8665-7155 in the first instance.

Yours sincerely



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⁷ Ibid, pp. 64-66.