13 August 2010

Ms Wendy Heath
Regulatory Review – Smart Meters
Essential Services Commission
Level 2, 35 Spring Street
Melbourne VIC 3000

By email: smartmeters@esc.vic.gov.au

Dear Wendy,

ORIGIN SUBMISSION TO SMART METERS DRAFT DECISION

Origin welcomes the opportunity to provide views on the Commission's *Regulatory Review - Smart Meters Draft Decision*. We recognise the difficulty inherent with the Commission's task and we are pleased to have had the chance to participate in the Commission's various public fora.

Overall, we believe that many of these complex and uncertain issues are becoming easier for stakeholders to grasp as we continue to discuss them, and addressing the questions raised by the Commission has also helped us to identify more technical matters that need to be addressed.

However, we remain concerned that there are still a number of matters that *cannot* be managed in the manner, and within the timeframes, contemplated by the Commission. The matter of monitoring customers in hardship and on Time of Use (ToU) tariffs by 1 January 2011 is an example of this, as are index reads and substitutes on bills by April 2011. Given the range of industry requirements and processes that have 2012 as a start date, perhaps the Commission could aim for alignment with this period instead. This would also make sense in light of the current uncertainty about the implementation of ToU tariffs.

It is important that the industry continues to discuss the practical realities of the Victorian smart meter environment, retailer systems capacities, and what we can and cannot presume about consumer preferences at this point. Perhaps as an industry we need to spend more time with the Commission and other stakeholders to address these matters. We would be open to having these discussions at the Commission's convenience covering both general industry issues and Origin's own specific implementation issues.

Our detailed comments are below.

1. Assisting vulnerable customers (section 3)

The Commission's draft decision is for retailers to do the following for customers in hardship programs on a smart meter tariff:

- Agree with participants the most cost-effective tariff based on their behaviour and circumstances known at the time of entry to the program

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- Monitor participants' behaviour and consumption during the program to ensure that they continue on the most cost-effective tariff and facilitate a change if necessary
- Not offer supply capacity control products until 31 December 2013.

Origin notes these provisions and we believe we understand the regulatory principles involved. However, in its current form this decision has the potential to bring about significant unintended consequences if it is not clarified further. It also seems to misunderstand the processes retailers employ to currently manage customers in hardship and the resources involved.

First, while 'cost-effective' does not mean 'cheapest' in a literal sense, this is likely to be the practical interpretation by stakeholders. The notion of agreeing the most cost-effective tariff could then be seen as limiting, as a customer may explicitly choose something other than the cheaper tariff, and it is their right to do so. This might, in retrospect then be viewed as a retailer failing to 'push' a cheaper approach. We suggest that the principle is the most *appropriate* tariff, given customer preferences and the information available about customer circumstances (including bill affordability) and behaviour, and we would seek the wording to be amended to reflect this.

Second, the draft requirement to "monitor participants' behaviour and consumption during the program to ensure that they continue on the most cost-effective tariff and facilitate a change if necessary" contains a number of elements that are of concern to Origin. The appropriateness of a customer's tariff – particularly when on a ToU tariff – may well change on a daily or weekly basis, depending on how they use energy. Any one snapshot of a tariff may provide a view that is not representative of the overall appropriateness (or cost-effectiveness) of a tariff. This aspect also makes 'ensuring' the customer is on the best tariff a potentially problematic matter – how can we expect these sorts of issues to be assessed by the Commission and others? Further, for retailers to have any effective view of the appropriateness of a ToU tariff, initial monitoring would need to occur over an extended period (at least a year), because there will be seasonal differences in consumption.

As agreed at the forum, retailers' existing monitoring should in theory cover this requirement. However, there is a need to be clear that retailers, and specifically large retailers such as Origin, do not have the systems or resource capacity to constantly monitor customers' tariffs against their usage and then have these discussions with customers. While monitoring of this type may be possible in the early days on a manual basis while there are very few customers who are in our hardship programme and on a ToU tariff, this is not a sustainable approach for future years. We will require more time to get our systems ready.

As a final point on these requirements to monitor and change customer's tariffs, we note a somewhat concerning early trend toward holding retailers responsible for issues that in reality require (a) more to be known about what the tariff offerings will look like, what customers want, and the government's education programme that is to explain this change to the community, and (b) customers to also play a part according to the information they should be receiving about the smart meter environment and their options. Ideally, we would like to see the sort of regulatory provision discussed by the Commission have a stronger element of shared responsibility, and of retailers providing *information* to customers about options to then enable a meaningful discussion about the most appropriate tariff. This is particularly the case if these provisions end up forming the basis for the larger customer population.

Regarding the supply capacity control aspect, we seek that the Commission articulate more clearly that its ban on supply capacity control products until the end of 2013 is

about banning the use of these products to constrain supply as a credit management tool. We understand this to be the Commission's intent, and agree with the principle, but the issue continues to be misunderstood because of various views within the industry of this type of product. We would rather the Commission draft this principle according to the behaviour it seeks to avoid (that is, use of 'choking' as credit management) than by the generic name of a product type that may unintentionally capture more than the product use that causes concern.

2. Providing an index read

The Commission has advised that Clause 4.2 of the Energy Retail Code will be amended so that the total accumulated consumption reading corresponding to the end of the billing period is shown on all customers' bills derived from interval data.

We would like to reiterate the concerns we raised in previous submissions and fora about the limited value of providing a total accumulated consumption reading (an 'index read'). However, we also recognise the Commission's commitment to going down this path and so will move on from this debate.

The remaining issue for Origin on this draft decision is then the timeframe suggested of 1 April 2011 and its misalignment with the date that distributors are going to provide the appropriate data to retailers to enable an index read for a bill, which is 1 January 2012. As discussed at the last forum, it was apparently the Commission's view that data will be available prior to 2012 under some voluntary arrangement. However, we suggest that this is not likely, and thus that the Commission change its start date for a retailer to provide an index read to align with the 2012 date currently provided in the Victorian smart meter specifications for distributors to provide the required information to retailers. A later date will also give more time for the industry to test the relevance and accuracy of the index reads compared to the data used for billing before providing what may be confusing information on customers' bills.

3. Estimated and substituted data on bills (section 4.2.2)

The Commission has advised that Clause 5 of the Energy Retail Code will be amended so that:

- retailers must indicate that the bill is estimated when more than 5 per cent of the interval metering data that is used to determine the billed energy consumption are estimates (note we have changed the Commission's language as discussed below); and
- when any interval metering data from a smart meter is required to be substituted to determine the energy consumption in the bill, the retailer must either:
  (a) indicate on the bill that the bill is substituted and the extent of the substitutes; or
  (b) not charge in the bill for energy consumption for each interval that is substituted.

As a preliminary note, the words about estimates in the current draft decision are potentially misleading, as they imply that any data that are "not actual readings from the smart meter" are estimates. This is incorrect as the Commission knows, as the presence of substitutes would demonstrate. We also note that this wording is not reflected in the body of the document, which is clearly about estimates only. We ask that the Commission clarifies this issue for future papers or legal drafting.

We also note that the Commission plans to expand the performance indicators to include the number and proportion of bills issued with substituted data.

The proposed provision regarding substitutes is of great concern to Origin, and we would like to address this in some detail. As we noted in our submission to the Issues Paper, the definitions used by the Commission are not consistent with the definitions used by the industry as per the Metrology Procedure. We have assumed that the Commission's interest in substitutes is actually in 'Final Substitutes' as defined by the Metrology Procedure, which is to mean substitutes that reflect the final version of substituted data, and not 'Substitutes' which are more like estimates from a customer perspective (although defined differently by industry) as they will be adjusted with further data. We have several concerns about this as listed below.

(1) As we raised in the last smart meter forum, there are occasions where the 'final substitutes' as advised by the distributor are not actually final – they are sometimes updated further. This practice undermines the premise behind the Commission's draft decision as it makes technical retailer compliance problematic. We certainly suggest the Commission address this issue further – our experience is that this is a regular practice, but we do not have further information at this stage.

(2) In the past two Commission smart meter fora Origin has raised the question of the public policy benefit of customers seeing that a portion of their bill was substituted. We have been advised that customers will 'want to know' but we need to be clear what they are even going to find out, or to understand about this issue, and if it will meet their need for information. There needs to be a more disciplined discussion of the practical realities of the situation, including the costs, and these realities need to be assessed against a clearly articulated public benefit.

Overall, while we can understand the view that the customer should know when there are significant numbers of estimates in their bill, it is not clear how they will benefit from knowing that there are substitutions as there is not, nor will there be, better information available to them on their usage. We question whether the average person seeing that X% of their bill has been substituted will actually do anything with this information. They certainly can't change this situation, and neither can the retailer who will pay the market and the network on this basis. The fact remains that the data that will have been substituted will (a) have come from the distributor, and (b) been calculated with as much accuracy as possible based on standards set in the Metrology Procedure. Further, the data will not be able to be assigned to any particular day/month in order for a customer to query accuracy. All that will happen is that the customer will call the retailer's call centre to be told that the substitute stands, it's as good as it's going to get, and that the call centre operator cannot provide any further information.

Retailers will thus bear costs of training and manning a call centre to explain information to customers that will ultimately be unsatisfying, and which the retailer cannot control. The problems that are likely to result from this – particularly if substituted data are used more than distributors are currently suggesting – should not be underestimated. We do not yet know how prevalent substitutes will be, or if they will occur in occasional blocks or tiny amounts in most bills. If this happens with any frequency customers are not likely to be satisfied, and Ombudsman complaints are likely to rise. The risk and cost of setting the systems changes as proposed before we understand this are significant.

Overall, while Origin certainly sees the benefit of understanding how much substitution is going on, this is a market issue and not a specific customer issue.

The Commission's draft decision to collect data on this as part of performance reporting is a far more appropriate means of understanding substitutes in the new environment. Following this compliance measures could be used against the causing party to address the issue.

(3) Further, the Commission's suggestion that retailers can just choose to not advise customers, but to also not bill them for the substituted period, is not a solution. The retailers still end up bearing the risk and the cost of aspects of the market that lie entirely out of their control, and once again there are systems issues here. Systems need to be built to address this matter – the matter of what to put on a customer's bill is not decided on a manual basis. Alternatively, if the Commission is in reality suggesting a more systematic approach where a retailer would just set business rules that say it absorbs below a certain percentage of substitutes so it does not need to advise the customer, it is worth pointing out that this directly contradicts the purported public policy benefit of customers 'needing to know' as we discussed at the last forum. If it is true that customers are happy to not know if substitutes are below a certain point, then we need to find out what that point is and not waste further time or money building systems that require all substitutes and their extent on customer bills.

Therefore, we question the value of implementing this provision, and particularly with the system requirements it makes of retailers, while there is no information in the market about the prevalence of substitutes, including the final 'final' substitutes mentioned above. We recommend that this is a provision that can afford to wait for a period to ascertain (a) how often substitutes occur in a way customers might value knowing about, and (b) whether customers actually want this information in the form suggested. For Origin, the costs of the systems and process changes and the additional staff required to manage the inevitable customer queries required to comply with this draft decision are extremely onerous, and this is for customer value that is, at this stage, yet to be demonstrated. We would like to discuss this further with the Commission at its convenience.

4. Graphical information on the bill (section 4.3.1)

The Commission has advised that Clause 4.4 of the Energy Retail Code will be amended to include the requirement that retailers show the customer's consumption for each monthly period over the past 12 months, where there is a consumption graph for customers with smart meter tariffs.

As we noted in our submission to the Issues Paper, Origin would prefer that formats for graphs are not mandated until more is known about consumer preferences, including their preferences regarding modes of communication. We are also working on developing a range of 'self-serve' options for customers to view and understand their information online. However, we understand the policy requirement that underpins this regulatory requirement and recognise that the Commission is seeking to mandate a minimum standard that will be a default for all customers, not just those with online access. Given this, we can accept the Commission's draft decision on this issue on a conceptual level, but we do have a major concern regarding implementation – monthly billing information will present major systems issues at this stage for customers with quarterly bills. The very real cost of managing this issue may well not be worth the purported customer benefit.

We suggest that implementation should be delayed until at least January 2012, given the timetable of the roll-out and associated obligations on all distribution businesses to provide interval data. In addition, more will be understood about the processes associated with monthly network and retail billing by that time.

We also caution the Commission that legal drafting will need to be careful not to embed any notion of a month that may clash with a customer's monthly billing period, for example, to lock in a graph based on a calendar month.

The Commission has also stated that the average daily cost for each smart meter tariff component over the billing period should be shown, and we confirm that this does not need to be part of a graph, but may be provided separately. Origin is able to provide this information but we question whether it adds any value. Further, the amounts can easily be calculated by customers themselves from the information already on the bill.

6. Notification of tariff variations (section 4.3.3)

The Commission has advised that Clause 26.4(b) of the Energy Retail Code will be amended to require retailers to notify the customer of any variation to the retailer's tariffs at least one month prior to the date of effect. This notification must be separate to the customer's bill.

Origin notes that while we agree with the principle of this notification, its final application is going to be determined by processes outside of the Commission's (and the industry's) control. This means that an April 2011 start date may be unachievable, as there will need to be time for (a) the external processes to be completed, and (b) retailers to make system changes as required. This timing will vary from retailer to retailer depending on their current systems, and it is important that the Commission investigate these timing requirements more closely.

We note that Clause 9.8 of the default Use of System Agreement will be redrafted to ensure that the distributors advise the retailers of the network tariff changes in a timely manner, so that the retailers can meet their new obligations. We suggest that a 'timely manner' needs to be further elaborated (and would need to be *at least* 10 business days), but recognise that this is also being addressed in other processes.

7. Shopping around for a better offer (section 4.4)

We note that the Commission will commence a review of Guideline No 19: Energy Industry –Price and Product Disclosure in January 2011, taking into account the smart meter tariffs that are likely to be offered to customers and the work being undertaken by the AER. We will provide more comment on this issue at that time.

8. Enabling access to billing and metering data (section 5)

The Commission has advised that it will incorporate new provisions in the relevant regulations to require:

- both retailers and distributors to establish a set of privacy principles for the dissemination of consumption information through IHDs, before they are utilised;
- retailers, in providing IHDs to their customers, to provide information to the customers setting out how the consumption and cost information displayed on the IHD compares to the consumption and cost details on the customer's bill.

As a preliminary point, we seek clarification on the Commission's intent. Our reading of the Draft Decision is that privacy principles are being proposed by the Commission as a means of fulfilling obligations under the National Privacy Principles, and only for the situation where a retailer, through a distributor, securely binds an IHD to a meter and the customer then changes premises. The principle is to ensure that information about previous customers is not able to be accessed, used or disclosed when new customer moves in. We also understand that the intent of privacy principles in this area is to

ensure that retailers do not misuse information (which is already in contravention of the National Privacy Principles) about usage for marketing purposes. The Commission is seeking for retailers and distributors to develop a brief document for customers that explains how information will be used under existing regulation.

We also seek clarification on the second provision, where our reading is that a retailer is to provide information to a customer about how that retailer's specific IHD (where it provides one) will relate to that customer's bill. The Commission is not seeking to regulate or prescribe how IHD information is provided, but to ensure that customers are not left confused about the information on their IHD and how it relates to their bill. We understand the Commission does not plan to prescribe any further detail for this provision.

We provide the below comments on the assumption that these interpretations are correct:

(1) We do not see a problem with drafting a basic statement about information use that sets out for customers how we will comply with privacy rules in the smart meter environment. However, if this becomes a broader or more detailed regulatory requirement we suggest that any work on privacy issues needs to also incorporate the activities of non-utility providers of IHDs. It is a mistake to assume that IHDs will be the sole province of retailers, and any privacy issues will need to be addressed across the sector. Given this, and given the very early stages of developments in this area, we strongly suggest that this matter is reviewed at a later point in time, and potentially by an entity with some power over the non-utility entities, such as Consumer Affairs, in liaison with the Office of the Privacy Commissioner.

(2) We question the need for a provision for consumers to be given the necessary information by retailers to understand their IHDs (where these are provided by retailers) and be able to relate to billing information. This would seem self-evident - surely any retailer providing an IHD to their customer is going to make this customer-friendly. Further, making these kind of regulations again brings out the issue of all the providers of IHDs who will *not* be covered as they are not retailers. Once again, we suggest that if there is a need for such regulation it should apply to all who provide the service, and that it should be a matter for review when more is known about the market. The relationship between IHD/HAN information and the bill may not exist at all given that they may serve different purposes, and the developments in this area need to be better understood. Further, this kind of regulatory action should only occur where there is some evidence that it is required.

10. Customer protection under disconnection (section 6.2)

Origin agrees with the draft decision that retailers are to state on all disconnection warnings that the disconnection could occur remotely.

However, we are concerned about the draft decision that Clause 13.2 of Energy Retail Code will have the 'best endeavours' element removed and prescription about forms of contact added. This would seem to imply that a retailer has to have has *successful* contact before a remote disconnection can occur. However, successful contact requires the customer to engage with the retailer, which we know does not always occur. The Commission's means of addressing disconnection with no engagement is to then prescribe certain numbers of contacts and forms of contact that may occur, where the retailer cannot disconnect unless it has sent a letter, after not being able to make contact via a visit to the property or two phone calls.

First, we believe that 'best endeavours' to contact is the best that a retailer can ever do, given that the retailer can only ever control the making of the calls etc, and not the engagement of the customer. Taking out 'best endeavours' and replacing with prescription about forms of contact is just replacing one form of prescription (given that the detail was prescribed in the Wrongful Disconnection Procedures) with another, less clear version.

Second, we are not convinced that increasing forms of specific contact is an effective way to deal with the issue of customers needing to be aware of remote disconnection. We are not sure why there is the need to be prescriptive at all about forms of contact when the issue is to just make sure that retailers make reasonable attempts to get in contact with the customer according to the contact information available. For example, we also use SMS and email contacts where these are used by the customer, and would expect that these forms of contact would be just as good, if not better, than the other forms prescribed above.

12. Frequency of network billing of retailers by distributors (section 7)

The Commission has advised that the default Use of System Agreement (UoSA) will be amended to enable the distributors to issue monthly bills to the retailers, but retain the payment terms associated with the customers' current billing cycles.

Origin generally supports the Commission's approach, however we note that the suggested changes to the first dot point under Clause 7.8(a) of the UoSA will need to address the additional dispute timeframe which has been agreed in principle by the industry. We also note that there are some typographical errors in the proposed drafting as it stands.

We would be happy to discuss any aspect of this submission further with the Commission, and at your convenience. If you have any queries about this submission please contact me on (03) 8665 7865.

Yours sincerely

[signed]

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