



21 September 2020

Mr Sean McComish
Director Advisory and Research
Essential Services Commission
GPO Box 2605
Adelaide SA 5001

Email: smallscale@escosa.sa.gov.au

Dear Mr McComish

RE: Inquiry into regulatory arrangements for small-scale water, sewerage and energy services

Origin Energy (Origin) appreciate the opportunity to provide a response to the Essential Services Commission's (ESCOSA) inquiry into the regulatory framework and approach covering small-scale water, sewerage and energy services – draft inquiry report.

In relation to energy, Origin reticulates liquefied petroleum gas (LPG) to over 2,300 customers across six reticulation networks in South Australia covered by the Reticulated LPG Industry Code (the Code). The focus of our responses in this submission is on this segment of the small-scale energy supply market.

In relation to LPG, ESCOSA suggest that the current regulatory regime is operating effectively for customers. In particular, ESCOSA note that it has not been presented with any evidence to suggest that prices are inefficient, or that viable substitutes do not exist. Further, LPG service levels appear satisfactory, with ESCOSA noting that, since 2014-15, there have been no complaints reported relating to quality of supply with reticulated LPG network service providers.¹

In seeking to enhance the existing regulatory framework, ESCOSA propose to:

- implement a verified trust and accountability model for the regulation of small-scale networks;
- continue to pursue harmonisation of industry codes and guidelines as a separate and parallel project with a view to identifying any potential changes that might provide a net benefit; and
- mandate licensee membership of the Energy and Water Ombudsman SA (EWOSA) scheme.

We are broadly supportive of the proposal and consider that a light-handed regulatory approach is warranted. However, as discussed in our previous submissions, we remain concerned at the potential for an increased regulatory burden and costs associated with the proposal particularly with regard to regulatory harmonisation and mandatory EWOSA membership. Our views are set out in further detail below.

Verified Trust and Accountability Model

ESCOSA propose to adopt a verified trust and accountability model (VTA model). This approach relies first on a service provider demonstrating that it is a competent operator. In the first instance, ESCOSA expects the majority of existing small-scale service providers could demonstrate the characteristics of competent operation and could therefore be trusted to operate without the need for prescriptive reporting and

¹ ESCOSA, Inquiry into regulatory arrangements for small-scale water, sewerage and energy services – Draft Inquiry Report, August 2020, p. 21.

compliance frameworks. Unless evidence is presented to the contrary, these service providers are assumed to be acting competently and performing appropriately.

Origin consider the proposed process for categorising licensees is appropriate and supports the default position that most current licensees would be placed in Category A on commencement of the VTA model. Further, we are comfortable with the proposed publication of assessment results including maintaining a list of licensees that do not demonstrate a competent operation. We consider this approach provides transparency for customers and acts to incentivise licensees to improve their operations.

ESCOSA propose that reporting requirements for Category A licensees be reduced, relative to existing arrangements. Rather than provide annual information that has not materially changed, the emphasis is on exception-based reporting. Category A licensees would be required to provide an annual assurance statement and use their discretion to determine any material changes to operations to report to ESCOSA.

Origin appreciate that the concept of materiality is difficult to define given the variance in licensee size and operation and thus determining what constitutes a material change to operations is likely to be subjective. Origin anticipate that licensees will initially adopt a conservative approach to reporting potential material events and will work iteratively with ESCOSA over time to develop a shared understanding of material events for the individual licensee.

Given the reduced annual reporting for Category A licensees, we consider the proposed use of assurance statements and audits is appropriate. However, we consider that audits should be used judiciously with less emphasis on periodic audits and a focus on event-based (incident and assurance) and ad hoc audits. The use of periodic audits appears counter to the objective of light-handed regulation and has the potential to inadvertently increase the regulatory burden on licensees. Conversely, the threat of ad hoc audits for Category A licensees is an effective means of incentivising licensees to undertake competent operations whilst also minimising compliance costs.

ESCOSA propose that licensees should publish up-to-date and accurate performance information independently with performance reported directly to their customers, with form and detail being determined through customers' engagement. Under the proposal, ESCOSA would have a role in ensuring that licensees' systems, processes and controls for publication of performance data are robust, such that customers can rely on the information provided.

While ESCOSA would continue to publish annual performance reports, these would relate more to matters such as systematic issues or observations, the outcomes of audits and major compliance or operational issues and explaining what ESCOSA has done to assess performance and competence throughout the year.

Consistent with the objective of reducing the regulatory burden, Origin consider that the proposed process should be similar or (ideally) less onerous than current performance reporting obligations. In terms of performance measures, Origin currently report the following metrics to ESCOSA annually:

- number of reticulated distribution system interruptions; and
- gas quality complaints received.

We question the value of reporting performance metrics to customers directly. Other than issues relating to their account specifically (e.g. making sure there are no supply interruptions etc), we consider that customers are unlikely to be concerned with performance across the network or Origin's network performance across the state more broadly. We note that no other state currently requires this level of reporting and the proposal represents an added obligation inconsistent with the objective of light-handed regulation.

Also, to the extent EWOSA membership becomes mandatory, this could lead to duplication as the Ombudsman should already report on case numbers and issues across industries.

Origin propose to work with ESCOSA and customers to determine an appropriate set of performance measures that provide sufficient useful targeted information for consumers whilst minimising the compliance burden for licensees.

Harmonisation

Origin supports regulatory harmonisation in principle but agrees with ESCOSA that any changes to the regulatory instruments and associated obligations should only be implemented if it can be demonstrated that the benefits outweigh the costs. It is important that harmonisation or alteration to the regulatory framework be fit for purpose and not inadvertently increase the regulatory burden on industry participants for the sake of regulatory consistency.

Origin agree with ESCOSA's proposal to separate the harmonisation project from the VTA model. The VTA project is not dependent on completion of the harmonisation project and we consider there is no imperative for the projects to be combined nor for the projects to be completed within the same timeframe.

Separating the harmonisation project will allow ESCOSA to undertake dedicated stakeholder consultation and ensure that the project receives the degree of attention required. There are likely to be a range of individual stakeholder circumstances and obligations that require consideration. In addition, determining the net benefit of harmonisation may not be straightforward. For example, Origin holds a Distribution and Retail licence in respect of its SA reticulated networks. There are a number of licence conditions requiring sharing of information and communication protocols between the distributor and retailer. In practice, Origin is both the distributor and retailer and as such, these conditions are redundant.

Origin look forward to participating in stakeholder consultation in respect of any harmonisation proposals.

EWOSA Membership

Origin agree that EWOSA membership would provide customers with a single transparent avenue through which to channel complaints that cannot be resolved directly with the service provider and provide a consistent and reliable source of complaint information for ESCOSA.

However, consistent with ESCOSA's assessment, we note that LPG network service providers do not appear to be behaving to the detriment of their customers. In particular, prices appear efficient and service levels appear satisfactory, with no complaints relating to quality of supply with reticulated LPG network service providers reported since 2014-15. In this regard, mandatory EWOSA membership for LPG service providers appears unnecessary and introduces additional costs for a problem that does not currently exist. In the case of LPG networks, it is not clear that there is a net benefit to mandatory EWOSA membership. Given the absence of customer complaints, the requirement appears inconsistent with the stated Inquiry objective of providing "targeted, efficient and appropriate" regulatory arrangements. Origin question why the current dispute resolution process for its LPG network is not sufficient particularly given the absence of customer complaints and the additional cost involved in mandatory EWOSA membership.

Closing

LPG reticulations service small markets and therefore an increase in regulatory requirements poses a genuine cost impact that must be recovered from very small customer bases. Given the small size of the reticulated LPG market in South Australia, the availability of alternative sources of supply, and the general absence of customer complaints, we consider that compliance obligations and associated costs should be minimised to the greatest extent possible.

ESCOSA is proposing that, if the VTA model is implemented, it would start from July 2021 to provide an appropriate lead time for licensees and other stakeholders. We consider this timeline to be appropriate and look forward to working with ESCOSA to finalise reporting requirements and implementation issues.

If you have any questions regarding this submission, please contact Gary Davies in the first instance at gary.davies@originenergy.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sean Greenup', written over a light grey rectangular background.

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