



19 February 2016

Mike Philipson
Essential Services Commission of South Australia
GPO Box 2605
Adelaide SA 5001

Lodged by email: escosa@escosa.sa.gov.au

Dear Mr Philipson,

RE: Review of the Operation of the National Energy Customer Framework in South Australia – Draft Report

Origin welcomes the opportunity to respond to the Essential Services Commission of South Australia's (the Commission) Draft Report on the Operation of the National Energy Retail Law (NERL) in South Australia.

Origin supports the Commission's draft finding that the NERL is functioning well and that South Australian customers have benefited from its introduction in areas such as hardship policies. This view is supported across a range of stakeholders, from retailers to consumer groups and social services representatives, many of whom note that the NERL has not detracted from customer protection when compared with the previous state based regime.¹

The NERL represents an important phase in the consolidation of the National Energy Market; the standardisation of retailer laws and regulations across jurisdictions has reduced retailer operating costs, encouraged new entrants and helped to create even more competitive markets. Consumers particularly benefit from the introduction of competition in markets; the increase in retailer entrance in South Australia has seen 84% of customers moving on to market offers, and 16% of small customers changing their electricity retailer in 2014-15.² Consumer interests are furthered through the more efficient and competitive operation of the energy retail market.

Competition

According to the Australian Energy Market Commission, competition is effective in the South Australian electricity market,³ which is second only to Victoria in terms of its maturity as a deregulated market. Retail competition has continued to increase since the introduction of the NERL, largely due to the deregulation of energy prices in early 2013, and there are now 16 different retailer brands operating in the state.

In Origin's view, the NERL has supported retail competition by standardising the cost of doing business across a number of jurisdictions; it lowers the barrier to entry in multiple markets and enables retailers to focus on delivering better products and services. The impact of the NERL has therefore been to complement, rather than impede, the benefits of deregulation in South Australia by lowering barriers to entry for new competitors. As the Commission concludes, this leads to greater efficiency for retailers that operate across state borders.⁴

Hardship and disconnections

¹ Essential Services Commission of South Australia, National Energy Retail Law: Review of operation in South Australia, Draft Report, November 2015, page 19.

² AEMC, 2015 Retail Competition Review, Final Report, 30 June 2015, Sydney, p. 254.

³ Ibid.

⁴ ESCOSA, Draft Report, p. 41.

Origin agrees with the Commission's draft finding that customers have benefited from the adoption of the NERL in South Australia. We agree that the hardship standards under the NERL, as administered by the AER, lead to appropriate levels of customer protection. Under the NERL, retailers must introduce and implement hardship policies that meet a number of specific requirements. These hardship policies are examined by the AER to ensure they meet the standards established by the NERL. Additionally, as the Commission demonstrates, hardship reporting requirements under the NERL are more comprehensive than was previously the case under state regulation.⁵

As stakeholders and the Commission have pointed out, there are discreet economic factors that explain recent rises in hardship customer numbers in South Australia. The increasing levels of unemployment and economic challenges faced by South Australia, rather than the NERL, are correctly identified by the Commission as the reason for increasing hardship numbers.⁶ Origin takes its hardship responsibilities seriously and we endeavor to consistently improve our performance through better engagement with our customers. Prior to the commencement of the NECF, Origin provided our customers with hardship assistance that exceeded baseline regulatory obligations, and we continue to do this through our hardship policy ("Power On"). We agree with stakeholders that the establishment of formal hardship programs by some retailers may also explain the increase in consumers on hardship programs since the commencement of the NERL.⁷ This is, in Origin's view, beneficial to those customers, as it is preferential that they avail themselves of hardship programs when appropriate.

Economic conditions are also relevant in explaining why disconnections rates may change over time. Origin would expect higher unemployment to correlate with economic hardship that may lead to customer disconnection. The NERL provides a pathway for disconnection but it does not determine whether customers have the ability to meet their payment obligations. Disconnections are not positive outcomes for either consumers or retailers as they deprive the former of access to energy and the latter with continuing business. Nevertheless, Origin acknowledges the Commission's view that "maintaining a level of disconnections within a period of declining economic activity might be seen as a positive outcome."⁸ We also agree with the Commission's conclusion that unemployment and economic conditions, rather than the NERL are important for explaining movements in the number of hardship customers and disconnection.⁹

In Origin's experience, the introduction of the NERL has not diminished customer protections, nor has it driven an increase in customer complaints that might indicate dissatisfaction with the scheme. In Origin's case, Ombudsman complaint numbers have declined from an average of 10.1 per 1000 customers in December 2011 (prior to the commencement of the NERL) to 3.56 per 1000 customers in December 2015. We would attribute this decline to a significant upgrade to Origin's billing system and a concerted effort to improve customer relations in a competitive retail market. Of these ombudsman complaints, high bill and non-payment complaints tended to be the highest since NERL was introduced; we would attribute these complaints to the cost of living and rising network costs more generally rather than the NERL in particular.

Derogations

Origin would like to see South Australia transition away from its derogations to the NERL, particularly minimum retailer service standards and the 160MWh small business consumption threshold. Jurisdictional derogations undermine the efficiency gains of the NERL, increasing the costs of compliance, and reducing the benefit of a national scheme. Whilst jurisdictions might believe that derogations are necessary for reasons unique to their state or territory, in practice they only add to administrative complexity and additional costs to retailers with little practical benefit. This is particularly

⁵ Ibid, pp. 14-15

⁶ Ibid, pp. 21-2.

⁷ Ibid, p. 23.

⁸ Ibid, p. 28.

⁹ Ibid, pp. 29, 31-32, 38.

the case with the 160MWh small business derogation, which is a notably higher threshold in South Australia than in other states. Retailers require different contracts, billing and pricing arrangements to operate in the South Australian small business market, diminishing the benefit of common systems that the NERL provides. As the Commission points out, the 160MWh threshold was initially seen as a transition provision during retail price regulation.¹⁰ In our view, this reasoning no longer holds following retail price deregulation, and the threshold should therefore be lowered to 100MWh per annum to make it consistent with other NERL states.

Origin aspires to lead the market in the delivery of customer service because it helps to retain loyalty and win customers in highly competitive retail markets. In South Australia, this means Origin endeavours to deliver above the regulated customer service standards. In our view, the best way of improving customer service delivery is through market competition rather than regulation. These minimum service standards can add to the cost of doing business in South Australia and assume which service standards customers value the most. In contrast, a competitive market allows retailers to determine and respond to customer service needs, and in turn allows customers to choose the retailer that provides the service that they most value. Markets are also more effective at signalling changing customer service preferences; in contrast, regulation tends to freeze these expectations and might act to diminish the incentive for retailers to improve service levels. Hence, it is Origin's preference that derogations pertaining to minimum retailer service standards be repealed and the competitive market left to provide retailers with the necessary incentives.

The Conservation Council of South Australia has submitted that not mandating greenhouse gas information is a detriment to consumer protection.¹¹ We agree with the Commission that the market is best placed to deliver this information without regulatory intervention.¹² In Origin's case, we already provide this information on our small customer bills, and do not believe that regulation mandating it is required or justified. If the Conservation Council of Australia wishes to maintain its position on this issue then, as the Commission points out, the correct course of action is to initiate a rule change to the NERL via the Australian Energy Market Commission.¹³

Closing

Origin would be pleased to discuss any matters raised within this response with the Commission. Please contact Timothy Wilson (Retail Regulatory Analyst) in the first instance on (03) 8665 7155.

Yours sincerely



Keith Robertson
Manager, Wholesale and Retail Regulatory Policy
(02) 9503 5674 Keith.Robertson@Originenergy.com.au

¹⁰ Ibid, p. 60.

¹¹ Conservation Council of South Australia, *Submission into the Review of the Operation of the National Energy Customer Framework in South Australia—Issues Paper*, 26 May 2015, pp. 1-2.

¹² ESCOSA, Draft Report, p. 3.

¹³ Ibid, p. 62.