31 January 2020

Department of Natural Resources, Mines and Energy
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Email: energyreview@dnrme.qld.gov.au

Dear Sir/Madam

Review of the Queensland Energy Legislation – Options Paper

Origin Energy (Origin) welcomes this opportunity to respond to the Queensland Government’s Options Paper on the Review of Queensland Energy Legislation. As a large, active retailer operating in Queensland, Origin has a strong interest in the review of the legislative framework to ensure that it remains efficient and effective in the current market environment.

Origin supports the Government’s general approach to align the Queensland electricity and natural gas requirements with the National Energy Rules (NER). The NER has delivered efficiency benefits and reduced regulatory burden through the implementation of nationally consistent energy laws and regulations. Many retailers operate across all jurisdictions and a single set of rules has resulted in increased competition and lower costs to retailers which are ultimately passed onto customers.

Discussions at the Government’s consultation workshops highlighted the need to ensure that energy requirements are appropriately allocated to the most relevant regulatory instruments and only necessary requirements are included. As a general principle, Origin believes that the high-level framework for the operation of the electricity and natural gas market should be set out in legislation with codes and guidelines containing the detailed technical and operational requirements. This will allow for greater flexibility to adapt to an ever-changing technical energy landscape.

By way of summary, Origin’s key positions in relation to the legislative review are:

- As far as possible, national consistency in terminology and requirements is supported. This will reduce ambiguities and the operational complexities of operating across markets;
- Technical standards are not well suited for inclusion in legislation and it would be more appropriate to deal with technical standards in Codes or Guidelines (which can respond in a more timely manner to ensure that standards are kept up to date and amended as the need arises);
- Electric vehicle charging stations do not require separate licensing at this time. Bi-directional charging stations could be treated in a similar manner to solar panel inverter installations;
- Given that Queensland’s Energy Efficiency initiatives and schemes are being developed within the Queensland Government’s Climate Change Transition Strategy, any regulatory framework changes relating to this issue are more appropriately considered as part of that policy decision;
- It is imperative that a consistent approach is developed to the treatment of Community Service Agreements with embedded network owners. Selectively entering into agreements for the provision of rebates will make it extremely difficult to track and monitor who is entitled to a rebate;
- The Queensland Energy and Water Ombudsman framework should align with the models used in other jurisdictions to capture potential cost savings; and
• If the Queensland legislation is amended to give the QCA additional information gathering powers, the powers should be limited to specific sections of the Act to which it has a review and advice function.

Origin’s detailed response to specific issues is provided below.

1. **Energy Efficiency and Demand Management (section 2.2)**

Origin supports the Government’s proposal for Option 3. That is, duplication between state and applied national rules for energy efficiency and demand management should be removed, however demand management reporting will remain for isolated networks operated by Ergon Energy. This approach seems appropriate given the significant amount of work being undertaken at a national level on these issues.

The Options Paper notes that the development of energy efficiency initiatives and schemes are being considered as part of the Queensland Government’s Climate Change Transition Strategy. Origin believes this avenue is appropriate to decide whether additional changes are required to the Act to support any policy decisions in this regard.

2. **Interaction with applied National Laws (section 2.3)**

National laws have evolved rapidly over the past 10 years, which has resulted in state laws not always aligning with corresponding national requirements. The Government has identified three key areas to review to align with national laws which include:

**Definitions**

Origin supports the Government’s preferred position of Option 3. That is, key definitions in state law are aligned with national laws. This will ensure consistent terminology between state and applied national laws and reduce ambiguities for industry and users.

**Distributed Energy Register**

The NER require network service providers to request users to specify the DER technology installed at a given premises (through the network connection process) and to then provide this data to AEMO. This is information relates to the presence of solar, batteries, or small-scale systems in a premises or business.

As part of the rule making process on this issue, the AEMC recommended that state based laws be reviewed to play a stronger role in supporting the DER Register. For example, placing requirements on electrical installers to provide information to the DER Register.

Retailers will not be privy to the quality and accuracy of information provided and included in this register as it is the responsibility of the network service provider, through the installer, to update this information within 20 days of installation. This register only formally commences from March 2020.

While we support the Governments proposed Option 1 (status quo plus education campaign to electrical installers) as the preferred position, there needs to be flexibility in the legislative framework to increase the requirements if necessary. If the provision of information is found to be largely incomplete or inaccurate, then the state should have an ability to place greater powers on installers to provide the information. This will be particularly important if the data collected via the DER Register is used by consumers are part of the Consumer Data Right (CDR) scheme.

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1 Treasury, Priority Energy Datasets – Consumer Data Right, 29 August 2019, p9.
Information gathering powers

The Options Paper states that the Queensland Government needs holistic oversight of energy issues impacting on the state – particularly for matters that cross state and applied national law boundaries. It further states that the QCA may conduct a review into any matter relating to the Queensland electricity and gas markets, however there are no supporting information gathering powers. In this regard, the Government has recommended that the QCA be given the powers to request information from any relevant person to support its advice functions.

Origin believes that the QCA’s information gathering powers should not be broad-based but limited to specific sections of the Act which it has a review and advice function and delegations to perform certain reviews or advice.

3. Licensing (section 2.4)

Origin supports the Governments Option 2 where there is national alignment of licencing requirements and the removal of duplication.

Licensing of Electric Vehicle Charging Stations

The Options Paper notes that the Queensland licencing and exemptions framework within the Electricity Act focusses on the activities of supplying electricity to and in “premises”. It does not contemplate supply to non-premises such as “electric vehicle charging stations”. The question is raised around how electric vehicle charging stations should be regulated or licenced in Queensland.

Origin believes that the electric vehicle charging stations could be treated in a similar manner to exporting solar systems. If the charging station is “bi-directional” and has the ability to export, it would need to seek the approval of the relevant distribution network service provider (DNSP) and comply with the wide range of connection standards that apply to the installation of inverter units. Thus, no additional licencing requirements are needed at this time.

There are also electric vehicle charging stations that are uni-directional (ie they only draw from the grid and are basic load). We view these charging stations merely as another appliance and thus there should be no requirements to inform the network when these appliances are connected (ie such as a new fridge). Imposing solar like requirements on these uni-directional electric vehicles charging stations would be cumbersome, administrative, timely and costly. This adding a significant barrier to the uptake of this innovative technology. These installations should be subject to the DNSPs connection standards. Under these arrangements there would be little benefit in licensing these appliances.

We would caution the Government from amending legislation to account for electric vehicle charging stations at this time given the infancy stage of technology development, especially the bi-directional charging stations. The legislation should be flexible to allow for guidelines or standards to be developed if it was seen to be necessary in the future.

Special Approval Holder and “Generating Plant”

Section 130 of the Electricity Regulation 2006, states that a person who operates generating plant with a capacity of 30MW or less is deemed to have a Special Approval to connect the generating plant to a transmission grid or supply network. In such a circumstance, the person operating the generating plant does not need a Generation Authority and may rely on the ‘deemed’ Special Approval.

Origin has identified two main issues with this. First, ‘generating plant’ is not defined in any of the Queensland legislative instruments (Act or Regulation). This opens the framework up to interpretation as to the meaning of ‘generating plant’ (ie is battery storage considered generation). Origin suggest the

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definition of “generating systems” set out in the NER be used as a starting point for defining ‘generating plants” for Queensland.

Second, there is a misalignment for the registration of systems in the NER and the Queensland legislation. The NER requires registration for generation systems greater than 30MWh per annum or for battery systems greater than 5MWh per annum. In Queensland, authorisation is required for a generating plant greater than 30MWh per annum and for any systems less than 30MWh, these are deemed to be authorised. Origin supports adopting the NER registration size requirements.

4. Powers of Entry and Resumption (section 2.5)
The powers or entry and resumption clauses have more relevance to distribution and transmission businesses than retailers. However, we have identified the following two key issues for retailers:

1. Definitions
   The Electricity Act provides provisions for a defined electricity entity to enter a property to inspect, maintain, remove, repair or replace meters or related equipment. It currently includes retailers as a defined entity.

   Given the evolving nature of metering in the NEM, Origin suggests that the Electricity Act should be less specific and merely reference the National Metering Rules. This will ensure that all metering roles are captured under this clause.

2. Power Industry Locks
   It is proposed that the Coordination Agreement administered by the QCA be amended to deal with access by retailers to power industry locks under the control of the distribution entities.

   While we support this approach, we believe that the feasible solution to resolve this issue is for the distribution businesses to provide Metering Coordinators with the master key for the locks. Currently, Metering Coordinators are incurring significant costs with wasted truck visits and numerous visits to a premise in an attempt to gain access to a meter to either undertake work or read the meter.

5. Technical Requirements (section 2.6)
The Electricity Act and Gas Supply Act provide for technical standards for:
   • meter replacement;
   • voltage requirements; and
   • systems of earthing.

   Origin supports the Governments Option 3 for the electricity sector whereby technical standards are provided within codes or guidelines rather than being included within an Act. This allows standards to be kept up to date as amendments to the standards arise. Including the standards within the Acts limits the ability of the Queensland market to align with any Australian standards developed.

6. Price Controls (section 2.7)
Origin does not believe legislative changes should be made requiring the QCA to consider options that improve system efficiency and meet customer needs as part of. Embedding this requirement in legislation reduces the flexibility for the market to adapt to change in a timely manner. The preferred position is for the Minister to issue a directive as part of the annual pricing delegation if it is seen necessary.
7. Dispute Resolution – Governance Structure (section 2.8)

The Energy and Water Ombudsman Scheme in Queensland (EWOQ) operates under the *Energy and Water Ombudsman Act 2006* and has been set up as a Statutory Body of the Queensland Government with an Advisory Body appointed by the Queensland Government.

Origin’s supports Queensland moving to a governance framework where the Ombudsman is set up as a company limited by guarantee and governed by a board of directors (ie Option 3). This framework has been established in New South Wales, Victoria and South Australia. Western Australia Energy Ombudsman is also a company limited by guarantee with a board of directors, however it is slightly different in the fact that the Ombudsman is provided by the Western Australian Office.

The major difference between all the other jurisdictional Energy Ombudsman Schemes and the Queensland Energy Ombudsman is that they are not governed by a legislative Act and Regulation framework. Rather, they operate in accordance with and observe the roles, functions, powers and obligations as set out in constitutions and charters. Amendments to constitutions and charters do not need to go through a legislative consultation process – rather amendments are agreed by members. This framework provides greater flexibility to amend the requirements and adapt as required.

Constitutions and charters also set out the governance structure of the Ombudsman schemes which ensures the Ombudsman Body is independent of Industry. The Ombudsman is appointed by a Board and where the Ombudsman must have no association with any member company. Generally, Ombudsman Boards have an equal number of industry and consumer directors, as well an independent Chair. This contrasts with EWOQ where the Ombudsman is appointed by the Queensland Government (through Governor in Council) and supported by an advisory body.

A company limited by guarantee is also largely supported given the “user pay” fees under a statutory body in Queensland are significantly higher than any other Energy Ombudsman jurisdiction.

Origin is not privy to the break down to the operating costs of the Queensland Ombudsman Office but queries whether these higher costs are a function of the governance framework and the framework not being able to respond to fluctuations in demand. Officers of the Ombudsman are appointed under the *Public Services Act 2008* and this appointment process may limit the extent to which costs can be reduced when complaint levels are low or falling over time. Origin has previously provided a copy of the various fees in each of the jurisdictions to show the significant difference in fees.

8. Customer Protection (section 2.9)

As noted in the Options Paper, the National Energy Customer Framework (NECF) was adopted in Queensland following the passing, of the *Electricity Competition and Protection Legislation Amendment Act 2014* and the *National Energy Retail Law Act 2014* (Qld). Adoption of the NECF brought Queensland into line with all other jurisdictions with the exception of Victoria. Given this, only a small number of express protections are required in state law. These being:

1. distribution service level codes for customers (ie connection timeframes); and
2. community service agreements to administer government concessions for embedded networks (eg electricity rebate and gas rebate).

With respect to distribution service level codes, we believe that these should be structured so that any standards reflect consumers’ preferences and willingness to pay.

From a retailer perspective, there needs to a consistent and clear approach to the administration of community rebates to embedded network arrangements. It can not be “optional” that some embedded networks enter directly into an administrative arrangement for the payment of concessions with the Minister and other embedded networks continue to receive concessions through a retailer arrangement.
It will be costly and timely to monitor and track which embedded network customers are receiving rebates from which party.

9. Emergency Powers (section 2.10)
Origin supports Option 2, which modernises and nationally aligns emergency powers. However, it is important that any direction given by the Minister is done in consultation with the Australian Energy Market Operator. As the market operator, AEMO has the best view of the operation of the market including the technical parameters of plant, and a forward view of their operation. Additionally, AEMO has powers of direction that is granted to them under the NER. It is imperative that any emergency powers ensures confidence is maintained in the reliability and security of the market.

10. Offences and enforcement (section 2.11)

Offences and Enforcement – structural arrangements
Currently, the QCA and the Regulator (Chief Executive of the Department of Natural Resources, Mines and Energy) are responsible for various administration and enforcement roles under the legislation. The Chief Executive has compliance and enforcement of State legislation and has some administrative functions in terms of granting licences. While the QCA is largely responsible for administrative matters relating to the making and amendments of codes, price setting and monitoring as well as reviewing the energy market.

The Government has raised whether there needs to be a clearer delineation of functions, such that the:

1. QCA be responsible for both administration and enforcement of legislation; or
2. Regulator is responsible for enforcement and the QCA is responsible for the administration of legislation (this is largely the current enforcement model).

Origin supports Option 2. That is, there is no change to the current enforcement and administrative functions. It is regulatory best practice that the functions of administration and enforcement are allocated to separate bodies to ensure accountability for the roles that have been allocated to them. Further, we have not witnessed any systemic issues with the current framework to warrant changes in responsibilities at this time.

Offences and Enforcement – penalties
The overarching objective of an enforcement regime should be to promote a high level of compliance across energy markets for the benefit of customers, while also minimising the associated regulatory burden. In Origin’s view, the existing framework could be modernised to ensure a single enforcement framework applies across both the electricity and gas market. This being that the general enforcement powers are limited to information notices, audits, warnings, contravention notices, directions, enforceable undertakings, cancellation or licence suspension. We support these enforcement powers being outlined in a guideline to ensure transparency and reduce regulatory risk of operating in the market.

In terms of civil penalties and criminal offence provisions, we support a review of these to ensure a consistent approach is applied across legislation. A relevant principle that should be applied when assessing the need for a civil penalty is proportionality. A civil penalty should only be reserved for those circumstances where the consequences warrant a severe penalty in order to act as a disincentive for wrongful action. This aligns with the principles used to establish penalty amounts in other established regimens such as the Australian Consumer Law and Corporations Act.

It should also be noted that increasing penalties may unduly increase operational costs for market participants, even for compliant participants, by increasing the amount of resources and time required by each market participant to ensure compliance. Particularly in the case where a penalty is disproportionate to a breach, this further increases operational costs as market participants would need
to devote a disproportionate amount of resources and time to ensure compliance. In addition, higher penalties would again deter open and cooperative engagement between market participants and the Regulator.

Closing

Should you have any questions or wish to discuss this information further, please contact [redacted]

Yours sincerely