



11 January 2013

General Manager, Retail Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Notice of draft instrument - Revised exempt selling guideline

Origin Energy (Origin) welcomes this opportunity to respond to Australian Energy Regulator's (AER's) draft notice of instrument of the revised Exempt Selling Guideline.

With respect to the sale (or on-sale) of energy by exempt (non-authorized) entities to end-use customers, Origin has long held the view that where it is uneconomic to allow customers access to contestable energy markets, consumer protections should be maintained to avoid the creation of two classes of customers. We believe consultations on the current guideline resulted in a regulatory instrument that balanced the cost of complying with regulatory requirements with appropriate consumer protections.

In general, Origin supports the AER's objectives: to clarify the existing guideline and to update the guideline to cover previously uncovered on-selling activities (such as specialist external providers who purchase energy from authorized retailers).

Origin would make the following specific comments on the proposed amendments.

Specialist external providers

Origin considers that the types of specialist external providers also extend to on-sellers providing energy for electric vehicles (EVs). At present, these providers represent another category that would not qualify for an exemption (either deemed or registrable) as the activity is widespread and not incidental. Origin proposed an approach to assessing whether an authorisation would be required for some of these new business models and activities. See page 14 of Origin's response to the AEMC's Power of Choice (Stage 3 Demand Side Participation Review) Directions Paper.¹

The criteria described by the AER on page 11 of the draft notice are an appropriate means of determining whether an authorisation would be required and Origin supports this. We believe it is important for consumers to maintain confidence in the consumer protection regime and for its availability not to be arbitrarily restricted on the basis of evolving business models in the retail energy market.

Clarification of exempt selling

Origin supports the amendment recognising that energy selling might extend to activities beyond on-selling.

¹ See submissions made to the Directions Paper at <http://www.aemc.gov.au/market-reviews/completed/stage-3-demand-side-participation-review-facilitating-consumer-choices-and-energy-efficiency.html>

Pricing for commercial and retail customers

The extension of pricing protection to commercial customers subject to exempt energy sales arrangements is appropriate for the reasons set out by the AER on page 11 and 12 of the draft notice. Where commercial customers are unable to access the contestable energy market they face disadvantages not only in negotiating with their exempt supplier, but also in respect of their own competitors who may be supplied by authorised providers.

Multi-site exemptions

The proposal to grant multi-site exemptions in particular cases is reasonable to the extent that consumers served under the scenarios described by the AER on page 12 of the draft notice can be confident that they enjoy consumer protections appropriate to their circumstances, comparable to those provided to customers served by authorised energy providers.

Solar panels

With respect to the new business model identified by the AER, Origin agrees that it needs to be dealt with under the exempt selling framework; as such activity is unlikely to be incidental and will be enduring in nature. To the extent that a multi-site exemption be warranted, Origin believes such an exemption should be registered (and understands it would be if the arrangement covered a material number of customers).

Other issues

Origin has reviewed the Consumer and Utilities Advocacy Centre (CUAC) report (lodged on the AER website) 'Growing Gaps: Consumer Protections and Energy Resellers' (CUAC, 2012) and agrees that a number of the deficiencies identified are becoming more common. Origin is supportive of CUAC's suggestion that registration for deemed arrangements be considered, particularly if such a process were simple and did not impose significant burden. Effective oversight of the exempt selling sector would be improved if this were to take place. For example, at present it is not clear how relevant regulators are able to assess whether (for registered exemptions) prices charged to customers in exempt situations are no more than the standard published rate or regulated price relevant to their connection type and network area. It is impossible to know this where deemed exemptions are granted.

The extension of ombudsman schemes to exempt sellers may be worthy of further investigation, particularly in the case of registered and multi-site exemptions where the exempt seller is a larger entity. This would improve consumer access to protections and effective dispute resolution.

If there are any matters raised within this response that the AER would like to discuss further with Origin, please contact me in the first instance.

Yours sincerely

David Calder
Regulatory Strategy Manager
(03) 8665 7712
David.Calder@Originenergy.com.au