



17 July 2009

Queensland Competition Authority  
GPO Box 2257  
BRISBANE QLD 4001

Email: [electricity@qca.org.au](mailto:electricity@qca.org.au)

Dear Sir/Madam

## **INTERIM CONSULTATION NOTICE - PROPOSED AMENDMENTS TO ELECTRICITY INDUSTRY CODE**

Origin Energy Retail Limited (Origin) welcomes the opportunity to respond to the Interim Consultation Notice issued by the Queensland Competition Authority (QCA). The Interim Consultation Notice proposes amendments to the Electricity Industry Code that will require retailer's to provide prior notice of price changes to small customers.

Origin is the local retailer for the South East Queensland region and currently supplies both market and non-market small customers in Queensland. Additionally, Origin is a national retailer operating in Victoria, South Australia and New South Wales. As a national retailer, Origin is familiar with the array of regulatory obligations in each State and must comply with each regulatory obligation to operate as a national retailer.

Origin believes the imposition of written price notice requirements will be administratively burdensome and costly to implement. It is important to recognise that whilst price variations to regulated prices for non market customers are relatively simple to process, calculate and publish, there are many variations of energy offers available to market customers from each retailer and therefore publication of a proposed price variation becomes problematic for energy retailers. Furthermore, market contracts should be allowed to deliver energy services in a flexible manner particularly as innovation and technology changes occur.

The consultation paper outlines approaches to price notification for customers on non market and market contracts in NSW; Victoria; Queensland; and South Australia. Origin believes that the provisions are workable and consistent in all these jurisdictions, with exception of New South Wales.<sup>1</sup>

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<sup>1</sup> Prior notice is only required for market contracts in New South Wales, and that jurisdiction does not enforce the strict requirements in Section 22 of the Regulations, instead taking a more pragmatic approach by deeming prior notification through a three step process - notification on bills on the prior billing cycle (where practicable), publication on the retailer's website and in local newspaper within 10 business days of the effective date of the price change and full details outlined on the customer's next bill. This approach has been adopted by NSW in 2009 and reflects the fact that the prescribed regulatory provisions are unworkable and costly to implement.



## 1. Non Market Customers

Origin does not support a requirement to provide prior written notice to customers of price variations. Nor does it believe it is appropriate to include a minimum term and condition in Chapter 4 to impose prior notice of price changes.

A retrospective price change limitation is unnecessary for non-market customers as sufficient safeguards already exist: regulated prices must be gazetted before they take effect, meaning a non-market customer cannot have a price variation imposed retrospectively.

## 2. Market Customers

The Queensland Industry Code has been based largely on the South Australian Energy Retail Code (and to some extent the Victorian Energy Retail Code<sup>2</sup>). Provisions relating to price variation in South Australia and Victoria have been in place for some time, delivering an appropriate level of customer awareness of price variations in these jurisdictions. These jurisdictions are amongst the most competitive energy markets in the world with a large proportion of customers now supplied under market contracts.

Accordingly, Origin does not believe that Queensland requires more onerous price notification regulation. Rather, customers could be made more aware of the price variation provisions in a market contract. Therefore, Origin suggests that the Queensland Electricity Industry Code may benefit from a new provision requiring the retailer to ensure explicit informed consent is provided to the price variation arrangements in a market contract, as introduced into Victoria in January 2009.

### Response to Specific Questions raised by the QCA

*Should a requirement be introduced into the Electricity Industry Code for electricity retailers in Queensland to give small customers written notice of any price changes prior to those price changes coming into effect?*

Origin does not consider a prior written notice provision should be introduced into the Queensland Industry Code.

The most efficient manner to advise customers of price variations, particularly where there is a mass price variation<sup>3</sup>, is to include this notice of a price variation on a customer's bill. This has been a long standing mechanism to notify consumers of price variations, which has been accepted by consumers in many jurisdictions. There is no evidence from these jurisdictions that this approach has proved inadequate in managing the market efficiently and effectively.

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<sup>2</sup> The Victorian Energy Retail Code (clause 20 (b)) was amended in January 2009 whereby explicit informed consent is now specifically required for price variation clauses in market contracts. Origin has been supportive of this amendment which has assisted in reinforcing consumers' understanding of price variation contract terms before market contracts are accepted.

<sup>3</sup> Such mass variations occur for instance, when there is a change in the non-market prices as many market products are linked to the non market price (eg 5% discount off the notified price).



As electricity billing relates to consumption that occurred in the past -- usually over a three month period -- a price notification on a bill will invariably be retrospective in its effect. However, in Queensland standard retail prices apply to all non-market customers and are gazetted and published prior to their application.

For market customers, Origin believes that provided customers are made fully aware of the price variation process before they commit to a non market contract, prior written price notification should not be mandated.

*If such a requirement should be introduced, what changes should be made to the Electricity Industry Code (for example, should this requirement be added to the list of minimum terms and conditions for retail contracts in Chapter 4 of the Code or would alternate approaches be preferable)?*

Origin believes that the only changes perhaps required to chapter 4 are to reinforce the informed consent provisions for customers on market contracts, as mentioned above. A new provision similar to Clause 20 (b) of the Victorian Energy Retailer Code (see below) could be added to the Queensland Electricity Industry Code (QEIC), applying to all market customers. Clause 4.1 of the Electricity Industry Code would also need to be amended to ensure that the new clause did not apply to non market customers.

Clause 20 (b) Victorian Energy Retail Code

#### **20. VARIATIONS REQUIRE CUSTOMER'S AGREEMENT**

*(a) The tariff and any terms and conditions of an energy contract between a customer and a retailer may only be varied by agreement in writing between the customer and the retailer.<sup>3</sup>*

*(b) If the amount of the tariff changes in accordance with a term or condition of an energy contract previously agreed between the customer and the retailer, no further agreement is required between the retailer and the customer to effect such tariff change, provided that, where the contract is a market contract, the customer had given its explicit informed consent to the inclusion of the relevant term or condition in the energy contract.*

In summary, Origin recommends that there should be no fundamental change to the Code other than consideration given to strengthening the EIC process. The current Code, as it does in Victoria and South Australia, supports a flexible approach in a complex and dynamic market. That is, it provides for a low cost, effective and efficient approach for mass price updates, but also provides scope for retailers to enter into other arrangements under their contracts with customers and/or to provide more formal notice to customers as required by individual circumstances.

Origin would argue that the proposed changes to the Code which appear to be in response to a particular situation, and which will, however, impact on all retailers, is not the best regulatory response. In our view, such a broad response as a Code change would not meet the "regulatory impact test" as it imposes a level of costs across the retail industry that is not off-set by demonstrated benefits across all customers.

We suggest that changes to the Code should be enacted in response to a systemic problem that is affecting multiple customers across the industry as a whole. Origin does



not believe there is a systemic issue in Queensland. Nor do we believe the current arrangements have been an issue in Victoria and South Australia where the existing requirements have operated successfully for many years.

Origin would welcome the opportunity to discuss this issue further to elaborate on our proposed approach to future tariff variations. Please contact me on (03) 9652 5702 if you wish to do so or have any queries.

Yours sincerely



Beverley Hughson  
Regulation and Relationships Manager