



31 October 2013

Mr Stuart Slack  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

By electronic lodgement

Dear Mr Slack

**Draft Rule Determination - National Electricity Amendment (Victorian Jurisdictional Derogation - Advanced Metering Infrastructure) Rule 2013**

Origin welcomes this opportunity to respond to the Commission's draft rule determination (herein the draft determination) on the Victorian Government's proposed rule change extending the jurisdictional derogation providing for exclusive meter provision for some customer classes and meter types. This submission should be considered in conjunction with Origin's response to the issues paper (August 2013).

Origin does not support the Commission's draft determination. While we understand the assessment framework the Commission has applied to reach its conclusion to extend the jurisdictional derogation until 2016, we believe the costs of ending the derogation have been materially overstated or not adequately defined and its extension:

- Does not support the National Electricity Objective (NEO);
- Removes consumer choice of alternative services, even in a limited way in Victoria for the next three years; and
- Detracts from the development of a national framework currently underway following recommendations from the Power of Choice (PoC) Review by preventing alternative service models to be tested in a jurisdiction which has substantial numbers of smart meters deployed.

In our view, insufficient evidence to support the extension of the derogation has been presented to support the proposed rule change. The cost-benefit data presented in the issues paper relies on assumptions that are untested or unsupported by experience in other jurisdictions. Extending the derogation will entrench the deviation of Victoria from provisions set out in the National Electricity Rules (NER) and reduce opportunities for new products and services to inform the development of a national framework.

Specific comments on various sections of the Commission's draft determination are set out below. Origin would welcome further discussion with the Commission on any of the matters we raise in this response. Please contact David Calder (Regulatory Strategy Manager) on (03) 8665 7712 in the first instance.

Yours sincerely

A handwritten signature in blue ink, appearing to read "R. Keith Robertson".

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## Section 2.4 - Rule making test

In section 2.4 of the draft determination, the Commission sets out its reasons why the rule change request will, or is likely to contribute to the achievement of the NEO. Origin would make a number of comments on the reasons supporting the proposed rule change as put forward by the Commission.

There is not currently a clear and viable framework for commercial contestability in AMI metering and related services in Victoria. In the absence of such a framework, expiry of the existing derogation might limit consumer benefits from the existing investment, without creating benefits from better third party access to related services.

Origin does not support this view. While work is underway to implement identified improvements to the existing rules to support the recommendations from the PoC Review, we do not agree such a framework needs to be fully implemented ahead of customer choice of metering provider and related services.

Applying the reasoning that a framework is required in Victoria in advance of contestable provision of smart metering should apply equally in other jurisdictions; that is contestable provision of meters to small customers should not be allowed in any National Electricity Market (NEM) jurisdiction since there is also a mandate of distributor exclusivity over meter provision (types 5 and 6) in non-Victorian jurisdictions.

A significant number of Victorian electricity customers will not have access to smart metering at the scheduled expiry of the current jurisdictional derogation (December 2013) and will be dependent on uncertain roll out schedules of individual distribution businesses. For such customers, there are no benefits available today, and it may be some time before they realise any benefits from the AMI roll out.

For existing customers, the benefits available to them are unlikely to outweigh the cost of the AMI roll out to date and for the period into the future the proposed extension of the derogation will cover. Benefits such as flexible pricing will not be threatened by competitive metering provision as the Commission suggests on page 17 of the draft determination - customers are required to opt into flexible pricing, and can do so whether or not an AMI meter is installed. It is the assignment of the network and retail tariff associated with flexible pricing that is relevant. In terms of other benefits, including the provision of in home displays, it is unlikely the choice of service provider by a retailer will reduce these, if anything, such benefits are likely to become more accessible.

The incremental benefits of allowing retailers to provide small customer metering services in Victoria are likely to be low over the period until a national framework for competition in metering and related services is established.

Origin would agree the sum of benefits associated with the contestable provision of metering in the short term would be modest, likely driven by the limited numbers of meters deployed on a commercial basis in this period. However, there are important longer-term benefits available to meter service providers, meter vendors, retailers and third parties (and distributors also to the extent they wish to be involved via their non-regulated meter service businesses) to build capacity and experience ahead of the development of any national framework. Such experience and capacity building will be delayed (along with a delay in the benefits associated with competitive meter provision) until a framework is decided upon in the future and rules and processes

implemented. The potential for gains in commercial insight in Victoria will also be delayed should the derogation continue as recommended in the draft determination.

Victoria, of all the NEM jurisdictions, should re-introduce choice of meter and meter service provision in order to allow market participants and service providers to understand how the market for smart meters will work as it transitions away from monopoly provision and regulated cost recovery. The unique circumstances in Victoria are a reason to reapply the NER, rather than extend the current derogation.

The costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of doing so. These costs could include possible detrimental impacts on the development of a national solution if Victorian-specific arrangements are developed. It is therefore likely to be in the interests of consumers for Victoria to wait until the national framework is established and to transition to competition in both metering and related services then.

Again, Origin would contest this view. As noted on pages 4 and 5 of our response to the Commission's issues paper, there is no evidence to support the most significant cost cited in the Victorian Government's proposed rule change request- the cost of meter churn on change of retailer.<sup>1</sup> Retailers have argued for a long period of time that inefficient meter churn will be minimised due to obvious commercial drivers. However, little weight has been placed on this view (particularly in relation to the Victorian exclusivity arrangements); despite the fact that it is retailers, their service providers and above all the asset owners themselves who will bear any risk and cost of meter churn in a contestable environment.

Origin would again draw the Commission's attention to the development of the advanced meter and related services market in New Zealand, which demonstrates in a similar commercial environment and market structure to the NEM, that meter churn is minimised and managed by stakeholders.

Furthermore, the provisions of chapter 7 of the NER are more than adequate to support contestable provision of meters to small customers for the relatively limited number of non-distributor meters likely to be installed between the expiry of the existing jurisdictional derogation and the implementation of a national framework. Origin does not consider it at all necessary to develop Victorian-specific arrangements given these are not required in other NEM states today to support customer choice of metering services.

The Commission goes on to say on page 9 of its draft determination that if national arrangements have not been implemented by the end of the derogation's extension (the end of 2016) for the transfer to "the national framework then the establishment of Victorian-specific arrangements should be reconsidered". Origin would contend that if such a scenario occurred, it would:

- Consolidate and further delay the lost opportunities provided by competitive metering provision;
- Take further time to develop Victorian specific arrangements, unlikely to be concluded by 2019, resulting in a suspension of contestable metering provision and service in Victoria by that time of ten years (since 2009); and
- Significantly reduce benefits for customers associated with competitive meter service provision (greater than minimum services, lower cost and so on).

Such uncertainty is a further reason why the derogation should not be extended. Allowing limited competition in AMI provision and services now will hasten the development of a national framework

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<sup>1</sup> Origin (2013), see: <http://www.aemc.gov.au/Media/docs/Origin-Energy-598d7d55-6035-4056-ad44-8bc4bc7674c9-0.PDF>

and inform policy makers, industry and consumer stakeholders whether elements of the proposed framework are required, whether consumer protections are appropriate and the practical realities associated with interoperability, access and the scope of required business to business (B2B) procedures.

## Section 2.5 - Other requirements under the National Electricity Law (NEL)

### Section 2.5.1 - Statement of Policy Principles

Origin understands the Commission has considered the (then) Ministerial Council of Energy's Statement of Policy Principles with respect to smart meters in applying the rule making test under section 88 of the NEL. We consider it clear however that the policy principles were drafted at a time when a mandated deployment of smart meters led by distribution service providers was considered the most likely and least-cost roll out approach.

While the Commission notes that "The statement of Policy Principles was put in place to support a consistent national framework for advanced metering", we would also add that it was to support mandated roll-outs of smart meters.<sup>2</sup>

The policy principles have not been amended since it has become clear that further jurisdictional-based mandates to deploy smart meters were unlikely. As such, we believe these principles may not be the most appropriate reference point to test the proposed rule change.

Origin makes comment on each of the principles contained in the MCE's statement in the below (emphasis added).

1. To promote competitive retail market and maximise the benefits of a **large scale accelerated** roll-out of smart meters to residential and other small customers, there should be a national minimum functionality supported by a national regulatory framework for smart meters.

Origin notes that some elements of this principle will be reviewed through the implementation of the PoC recommendations. In the absence of an accelerated, mandatory deployment of smart meters by a monopoly and in an environment involving customer choice of metering the need for detailed and restrictive frameworks will be significantly diminished. The Victorian roll out does not meet either of the conditions described at the end of this principle at present (it has its own functional specification and no general framework to support the minimum service levels or facilitated access).

2. To maximise the net benefits of a **mandated roll-out** of smart meters in a timely manner and capture operational benefits for distribution network service providers, distribution network service providers will be legislatively obliged to roll out smart meters to some or all residential and other small customers in those jurisdictions where a mandated roll-out will take place.

This principle applies in Victoria at present. Origin does not believe the expiry of the derogation will result in any material impact on operational benefits for electricity distribution networks. It is clear this principle will not be required in other NEM jurisdictions in the foreseeable future.

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<sup>2</sup> AEMC (2013), *Rule Determination- National Electricity Amendment (Victorian Jurisdictional Derogation - Advanced Metering Infrastructure) Rule 2013*, page 10.

3. A distribution network service provider who is obliged to roll out smart meters should have exclusivity over meter provision and responsibility for related metering data provision in respect of the customers covered by the mandate **during the period** in which the distribution network service provider must complete that mandate.

Based on this principle, the current jurisdictional derogation should expire as planned at the end of 2013.

4. The regulatory framework for distribution network tariffs, consistent with the revenue and pricing principles, should ensure that distribution network service providers:
  - (a) Are able to recover in a transparent manner the costs directly resulting from meeting the mandated service standards for smart meters and the costs of their existing investment which has been stranded by any mandatory roll out; and
  - (b) Promptly pass on cost efficiencies resulting from the installation of smart meter to tariff classes affected by the costs of a smart meter roll-out.

Origin believes the existing Victorian regulatory framework for AMI supports this principle and the expiry of the derogation should have no impact upon this.

#### Section 2.5.2- Considerations in making a jurisdictional derogation

In its draft determination on the original derogation proposal in 2008, the Commission determined that the proposal did not satisfy either section 89(a) or (b) of the NEL.<sup>3</sup> Despite this, the derogation was granted and the rule as made was materially different in relation to the critical definition of metering installation compared to the draft rule determination.<sup>4</sup> Now, the Commission believes the extension of the derogation to 2016 satisfies both sections 89(a) and (b). Origin would contest that “envisaging” the orderly transfer of regulation is not equivalent to providing for the orderly transfer of regulation, in relation to and as set out in section 89(a).

It is the failure to provide for transition that has resulted in the perceived need to extend the derogation beyond its current expiry date as Origin has pointed out on numerous occasions. The Rule as made by the Commission in 2009 specified the derogation would end the earlier of the end of 2013, or when national arrangements were in place to allow an orderly transition. Given limited progress has been made in the five years of the existing derogation toward a national framework (notwithstanding the comprehensive work under the PoC review), it would appear that the wish is to simply now extend the derogation as its expiry conditions could not be satisfied by the time the lapsing of the current rule was prioritised.

With respect to clause 89(b), the rule change request simply extends arrangements of the existing derogation, which itself was a deviation from existing regulatory arrangements (i.e. chapter 7 of the NER).

For these reasons, Origin considers the proposed rule does not satisfy sections 89(a) or (b).

<sup>3</sup> AEMC (2008), Draft Rule Determination- National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out) Rule 2008, page 16.

<sup>4</sup> Exclusivity in the Draft Rule applied to a meter installed for “the purposes of the AMI roll out”, whereas in the Rule as made, this was altered to apply to all type 3-7 metering for customers below 160MWh in consumption per annum.

### Section 3-The Commission's reasons

In this section, Origin makes comment on the Commission's reasons set out on pages 12-14 of the draft determination.

#### Section 3.1- Assessment of issues

Origin does not agree that on the expiry of the derogation, retailers will "...control access to the related services that are enabled by AMI meters".<sup>5</sup> Notwithstanding the debate around the meter type (4 or 5) of AMI, practically, the network management system for AMI (including the mesh network of each distributor and the head-end systems) will remain under the control of the relevant distributor at the expiry of the derogation. Retailers have no systems or capacity to control AMI-enabled services and if the derogation ended as scheduled, nothing would change in practice in terms of accessing AMI. Origin would expect that the current facilitated access model would continue.

While the Victorian Government considers that existing frameworks to support contestable metering are inadequate<sup>6</sup>, Origin has repeatedly put to the relevant Government department and more recently the Commission that the likely number of non-AMI meters installed in Victoria will be sufficiently small to have no impact on existing market systems. Origin has not experienced B2B or systems impact from its deployment of several thousand remotely read type 4 meters for the Adelaide Solar Cities project in the past five years. If the concerns put forward by the Victorian Government were material, there must be an equivalent need to limit competitive metering provision in other jurisdictions until a national framework is in place.

Origin takes the view (as discussed elsewhere in this response) that the expiry of the derogation will provide an opportunity to learn and build capacity in preparation for any new national framework, which itself will benefit by being informed of developments taking place in a real world market involving customer choice of smart meters and related services.

With respect to specific reasons set out on 12-13:

#### *Absence of a framework for contestable meter provision*

Origin does not believe the expiry of the derogation will threaten the benefits of the AMI program in any material way. By way of example, in the case of new connections, the impact on the existing AMI fleet and related systems would be negligible or zero.

#### *The national framework is being developed*

Origin supports the work of the Commission in implementing the recommendations in relation to a market-led roll out of smart meters from the PoC Review. We do not consider however that this prevents the development of contestable metering and related services (where customers choose to access these services) in the interim. Retaining the derogation will extend the Victorian anomaly of exclusivity not present in other NEM jurisdictions.

#### *Victorian specific arrangements*

We have commented on the need for Victorian specific arrangements in our response to the issues paper and in feedback provided to the Victorian Department of State Development, Business and Innovation (DSDBI). In short, none of the matters identified as barriers are material. There is insufficient evidence to support the claimed materiality of these barriers, which needs to be

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<sup>5</sup> AEMC (2013), *op. cit.*, page 12.

<sup>6</sup> *Ibid.*

demonstrated by the rule change proponent. With respect to divergence from national arrangements, if anything, retention of the derogation is more likely to entrench this.

#### *Interim arrangements*

The need for interim arrangements to support the expiry of the derogation and the possibility of contestable smart meters being installed, as discussed elsewhere, has not been demonstrated. No such arrangements are in place in other jurisdictions where type 4 meters are installed at small customer sites.

#### *Costs of establishing temporary frameworks*

Given the need for Victorian-specific or interim arrangements are not required, these costs should be negligible or zero. There is an opportunity cost associated with maintaining exclusivity for a further three years, with no certainty that a further derogation is sought should national arrangements not be ready at that time. This matter does not seem to be considered in detail in the draft determination. While we note the expiry date of 2016 to be firm, there is nothing to prevent the making of a further derogation, as has been the case for the present rule proposal considered in the draft determination.

#### *Expiry of the proposed rule (extended derogation)*

As discussed on page 3, the potential that Victorian-specific arrangements (notwithstanding our view that these are not required) would only begin to be developed once it became clear that a national framework would not be ready by the end of 2016 provides no certainty to retailers and third parties interested in participating in the contestable smart meter market in Victoria and simply delays the benefits/increases the opportunity cost imposed by the rule proposal.

#### Section 3.2- Assessment of proposed rule

Again, the draft rule and the amendments made by the Commission emphasise the primacy of a national framework being in place prior to the derogation expiring. As we have made clear, such a precondition is unnecessary, does not apply in other NEM jurisdictions with respect to choice of smart metering and will place Victoria at a disadvantage in preparing for the inevitable re-orientation of meter provision to a contestable basis in the medium term.

#### **Section 5- Adequacy of existing frameworks for small customer metering competition**

In this section of our response, we comment on some of the views put forward in relation to the adequacy of existing frameworks and the Commission's analysis of these views.

#### Section 5.1- Rule proponent's views

As a market participant and Responsible Person for contestable meters, Origin is in a position to dispute the view that existing systems are inadequate to support third-party provision of smart meters in Victoria. We do not intend to revisit all the arguments made previously by the Energy Retailer's Association (ERAA) and in our own response to the issues paper, however we again emphasise that none of the "detrimental" impacts identified will have a material impact on the costs and benefits of the AMI roll out, and almost all of them can be managed within existing industry processes, consumer protection regulations and the NER.

In reality, even if there was a national framework in place at present, a number of the barriers described in section 5.1 would remain, revealing the inherent conflict between choice of meter provision and related services and the existence of price regulated, mandated infrastructure.

Origin does not agree that existing market frameworks are not adequate to support the small number of contestable meters that might be installed between the expiry of the existing derogation and the implementation of a national framework envisaged under the PoC recommendations.

## Section 5.2- Stakeholder views

### *5.2.1- Consumer advocacy group*

Contrary to the views put forward by the Consumer Utilities Advocacy Centre (CUAC), we consider the retention of the derogation will not accelerate the delivery of benefits compared to the situation that would simply see it expire as planned. Again, the concerns listed by CUAC would presumably apply in other NEM jurisdictions, yet there is no restriction on consumer choice of smart metering in these states and territories.

Given flexible pricing is in operation, Origin does not consider it plausible that customers will be further confused by the deployment of a limited number of smart meters. This is particularly so given any such deployment is likely to be modest and targeted, with participating customers likely to agree to a package that includes a smart meter. In such circumstances, the benefits made available to customers through any marketing proposition will almost certainly exceed the minimum four core services available with AMI deployed by a distributor.

In terms of consumer protections, the Victorian Energy Retail Code has already undergone significant amendment adding consumer protections for customers with smart meters; Origin does not consider that further Victorian-specific regulation is required.

While Origin agrees with CUAC that customers have already been paying for AMI (since 2009), any customer choosing a competitively provided smart meter would cease paying the regulated AMI charge and would pay the alternate cost instead, which would most likely be lower cost on average to gain customer acceptance. Alternatively a customer may choose to pay more for services that exceed the minimum provided under the AMI roll out.

While noting the concern about third parties, under chapter 7 of the NER, only market participants (retailers, meter providers, meter data providers) would be able to enter the market at this time. As the Commission knows, a retailer will be central to any meter provision and third party participation through its role as Responsible Person and financially responsible Market Participant (RP and FRMP).

### *5.2.2- Victorian electricity distribution businesses*

With respect to the nine issues identified as inadequacies within the current regulatory framework in Victoria, Origin, the ERAA and other retailers have previously addressed the materiality of these issues.

1. Remote de and re-energisation was not seen as complex to implement by Energy Safe Victoria (discussed with ESV in March 2013 and this was communicated to the DSDBI).
2. The RP's meter provider would be responsible for restoring faults, if any, of contestably provided AMI. This issue exists today with pre-derogation type 4 meters at small customer sites and Origin has never had a meter failure to our knowledge. Smart meter failure does not always trigger an outage of electricity in any event.
3. Distributor access to third-party metering would take place in the same way retailer access occurs today; it would be facilitated by negotiation. The distributors would receive meter data on a daily basis in the same way retailers receive consumption data for AMI.
4. Origin does not understand how issue four is relevant. AMI meters are type 5. Even if they were re-designated type 4, the RP for AMI will be the local network service provider. In all

such instances for small customers, the device by definition must be AMI. Where the retailer is RP, the device is not AMI.

5. Issue 5 has been comprehensively addressed elsewhere and over many years. It is not a realistic argument that meters will churn and there has never been any evidence presented to support it happening on a widespread basis in other jurisdictions. In any event, the distributors will be paid an exit fee and restoration fee ahead of managing any re-installation of AMI.
6. Any contestable meter would comply with the AMI Functionality Specification in Origin's view. Where functionalities are unused and peripheral, these can be addressed in consultation with the affected parties.
7. The AMI Service Levels are relatively simple and limited to data retrieval and delivery and remote de and re-energisation. Origin does not see this as a barrier.
8. The framework for new connections is clear. If a retailer does not appoint itself RP, the distributor must install a meter. Energisation of the property can be managed through existing processes.
9. Any non-AMI meter will be a type 4 meter, with essentially the same attributes and capabilities as an AMI device (including the likely addition of a ZigBee radio).

In Origin's view, most of the issues described are immaterial and are managed in other jurisdictions today or are not sufficient objections to justify the extension of the derogation.

With respect to the performance issues discussed on page 19-20 of the draft determination, Origin would note the following:

- The protocols for remote re and de-energisation are straightforward and the issue has been discussed with ESV. It is important to note a substantial number of AMI re and de-energisation service orders are not performed on a remote basis today for a number of reasons. At the very least, manual re and de-energisation remains an option, regardless of whom provides the meter.
- Distributors would be free to seek data in addition to that provided for type 4 metrology in the market through facilitated access. The distributors do not define what data they are seeking to obtain additional network benefits, however Origin believes any reasonable data request would be accommodated on a commercial basis.
- A change in meter ownership would imply a replacement of the meter. While unlikely, the restoration of supply is a matter for the relevant RP and MP to manage to customer expectations.
- The distributors do not cite any specific examples for issue four and Origin believes such costs will be immaterial in the lead up to a national framework and will be offset in part by the potential for lower cost contestable metering.
- Issue five has been dealt with elsewhere in this submissive and on numerous occasions by retailers and third party meter providers since 2007.
- Origin believes the service levels, meter charges and terms of provision (all mandated and not negotiable for AMI from a customer perspective in Victoria today) will exceed those under the mandate for contestable metering. As such, the risk is that customers agree outcomes that improve their terms and cost of service provision. Origin anticipates that should contestable meters be deployed following any expiry of the derogation, comprehensive terms and conditions will be made available to customers (as we have done for our provision of in home displays [IHDs], despite no energy-specific regulation requiring terms and conditions or customer consent).
- Issue seven is discussed above and the existing regulatory framework deals with this possibility.

The risks associated with utilising existing market processes to accommodate type 4 metering following the scheduled expiry of the derogation are the concern of the RP, who is likely to be a retailer. Unlike the AMI roll out, where negative customer experiences may have occurred, distributors do not face the commercial impact of losing a customer. Since this risk does exist for retailers, any installation of a contestable meter will be managed with an even higher degree of care to minimise any negative impacts. Origin does not consider the reasons put forward on pages 20-21 of the draft determination as sufficient to justify an extension of the derogation.

#### *5.2.3 and 5.2.4- Retailers and Third party metering services provider*

Origin supports all of the views put forward in these two sections of the draft determination.

#### Section 5.3- Conclusion

##### *5.3.1- Existing frameworks are not adequate*

While Origin strongly supports the development of any national framework, we do not agree that extending the derogation serves customers via the NEO, or is necessary. As we have stated in our response to the issues paper and elsewhere in this submission, allowing the derogation to end as scheduled provides an opportunity in Victoria to inform the national framework. This will not be possible if the derogation is extended. Secondly, no restriction on contestable metering exists elsewhere, and now the Victorian AMI roll out is nearing completion, it is not clear why any continued restraint on choice of smart meter and related services is necessary.

With respect to the benefits from the Victorian program, the realisation of these varies. The use of remote re and de-energisation is becoming more common; however we do not see how these benefits would not be made available in a contestable environment. Where innovation under the derogation is pursued, facilitated access is required. For a retailer to negotiate facilitated access arrangements with distributors, the terms of access are not necessarily aligned with those that would be possible under a contestable market. As a monopoly service provider, Victorian distributors are not inclined to take on significant risk, and may shift that risk to the client of the service. There is no competition to influence the negotiation process. Under a contestable arrangement, competitive market forces would help achieve an appropriate balance of function, quality and risk.

Replacement of existing AMI devices is unlikely due to the exit fees distributors are able to recover. These fees incorporate the unamortised component of the asset life and are likely to be prohibitive. Unless there were commercial reasons for doing so, we consider that such replacement will be rare.

Origin does not believe the Commission should be concerned if retailers consider there being some benefit in providing commercial tension in order to secure better or more cost effective service levels from distributors. Exercising such competitive pressure would only occur when necessary and will invariably be to the benefit of consumers. If the derogation is extended, the potential for competitive pressure will remain until it is next due to expire. In any event, due to the likely level of exit fees, such competitive tension is not likely to be exercised in the short to medium term, by which time the national framework is likely to be in place. This does not eliminate the possibility that economic and efficient AMI replacement may take place in the absence of the derogation and does not impact upon green field connection points.

Origin supports the framework described on page 26 and 27 of the draft determination, with the exception of the need for arrangements to allow the transfer from distributors to retailers of existing contracts for meter and meter data provision services. This is not likely to ever be possible given the proprietary and closed access nature of such systems associated with these contracts.

While Origin does not agree that allowing the derogation to lapse will result in inefficient outcomes, we note that extending it guarantees that any benefits from choice of metering provider will not be realised. The Victorian derogation is by definition a deviation from the way the regulatory environment applies elsewhere and the arguments presented supporting its extension are insufficient to justify continued deviation. The example provided by the Commission on page 27 of the draft determination (distributors being able to access operational data and being able to send commands to meters) can be accommodated in a contestable metering environment. Since this is the environment that is likely to prevail from 2025 onward (in Victoria), understanding the commercial framework supporting such outcomes and testing this is precisely why the derogation should expire.

### *5.3.2- Victorian-specific arrangements for competition would need to be established*

The concerns raised with respect to inefficient meter replacement have not been demonstrated where type 4 meters have been installed at small customer premises. The owner of the contestable meter is the stakeholder with a strong vested interest in the continued use of that asset and the risks described are borne primarily by the service providers. Such private risks are factored into commercial decision making. Origin again does not consider these reasons sufficient to support the extension of the derogation.

Origin would once more disagree with the Commission that a set of Victorian-specific arrangements are required to support metering competition. Just as the NER provides for meter contestability in other NEM jurisdictions at present, restoring the provisions of chapter 7 would allow choice of meter provider and related services where it is economic and efficient to do so.

While Origin appreciates the assessment task the Commission has undertaken, we note that similar minimum requirements (such as those described in section 5.3.1 of the draft determination) are not in place in other jurisdictions, yet a small, but growing number of small customers have access to market provided smart meters outside of Victoria.

## **Section 6- Incremental benefits of introducing small customer metering competition in Victoria**

### Section 6.1- Rule proponent's view

Origin does not share the Victorian Government's view that the benefits are substantially the same whether the derogation is in force or not. While we agree that innovative services can be developed and offered through AMI, in practice, a number of separate negotiations are required for each service and retailers have limited bargaining power to secure what may be a specific and targeted commercial objective. In the absence of the derogation, a retailer might more flexibly negotiate with a service provider (or providers) on commercial terms to develop new services and deploy these ahead of approaching distributors to undertake a wider delivery of a product.

With respect to exit fees, these are not funded by electricity users, but by the retailer electing to replace an AMI meter. For exit fees to be incurred, a commercial decision must be taken to replace an AMI meter. The risk of doing so is borne by the incoming RP and any other party involved in the transaction. Origin does not believe such costs can be characterised as 'societal' in nature as they are allocated to those parties prepared to take commercial decisions that would trigger them. In the case of a green field site, no exit fee would be paid.

## Section 6.2- Stakeholder views

### *6.2.1- Victorian electricity distribution businesses*

While Origin agrees that progress has been made with distributors to deliver benefits and innovative services supported by AMI, it is not clear to what extent this is occurring and unlike conventional service provision, where the supplier offers access, a retailer or third party seeking a service will generally bring a proposition to a distributor who may accept, modify or reject it. For retailers seeking to offer the same products across Victoria, this process is complicated by different distributors who may not be willing to offer a uniform standard of service or level of additional functionality. For the purpose of testing highly innovative and complex products, a contestable supplier would resolve these issues.

On page 29 of the draft determination, distributors consider that retailers would not be able to provide smart meter services of the same standard as the AMI fleet at a lower cost than provided through the AMI program. Origin does not agree this is the case, and if it were so, there would be no need for a derogation to restrict competition in the first place. Secondly, it is not retailers who are providing smart meters and related services; it is advanced meter and related service providers, which may include the competitive metering arms of other distributors (Victorian and interstate).

### *6.2.2 and 6.2.3- Retailers and Third party metering services provider*

Origin would support comments made by the ERAA, AGL and Momentum Energy in response to the issues paper and would reinforce its own comments set out on page 30-31 of the draft determination.

Origin would also support the classes of customer identified by Metropolis who would benefit from competition in metering services. Some of these classifications match those that Origin identified as potential exceptions to the coverage of the derogation when first proposed in 2008.<sup>7</sup>

## Section 6.3- Conclusion

### *6.3.1- Areas of incremental benefit*

Origin does not believe the Commission is assessing the merits of extending the derogation on the same basis as which it was originally made. The original purpose of the derogation was to provide certainty during the accelerated roll out of smart meters. Now it seems that its extension is required to help make:

...the functionality of the existing Victorian advanced metering infrastructure available to consumers to control [in order to provide] ...the greatest area of potential incremental benefit.<sup>8</sup>

And that the Commission expects:

...this benefit to occur under a framework for commercial contestability where retailers and third party service providers can more easily access the existing functionality and offer the services directly to the consumer.<sup>9</sup>

It is not clear to Origin what functionality will be made available to customers in the near term, or ahead of any:

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<sup>7</sup> Origin (2008), see: <http://www.aemc.gov.au/Media/docs/Origin%20Energy%20-%20Received%2013%20November%202008%20-f705c079-4f88-4f41-a279-61eed7d80cc8-0.pdf>, pages 3-4.

<sup>8</sup> AEMC (2013), *op. cit.*, page 32.

<sup>9</sup> *Ibid.*, page 32-33.

- Future expiry of an extended derogation outside of what the distributors are obliged to provide to retailers (not customers directly) at present; and
- Those services that can be negotiated on a case-by-case basis by individual retailers and third parties.

In terms of retailers and third parties more easily accessing existing functionality, this is not likely to be possible given the proprietary nature of the AMI systems and network management systems to which they relate. The Victorian distributors have promoted a 'facilitated' access model. In practice this is the only realistic approach to accessing functionality of AMI devices for the foreseeable future.

#### *6.3.2- Incremental benefits are unlikely to justify Victorian-specific arrangements*

As discussed at length above, Origin does not believe Victorian-specific arrangements are required and the issues identified as being problematic in Victoria are not material. If they were, they would be of equal concern in other NER jurisdictions.

#### **Section 7- Appropriate duration of a new derogation**

Origin has nothing further to add to its previous comments on the duration of any extended derogation. We note that limited progress was made in the five year life of the current exclusivity derogation to address issues that are generally not material in nature. The complexity associated with the introduction of rules and processes to support the PoC recommendations (which has a national, not just a Victorian dimension) will, in any event, likely absorb most of the three year extension period recommended.