



2 July 2008

Mr Mick Geaney
Assistant Director, Licensing
Economic Regulation Authority
PO Box 8469
PERTH BC
WA 6849

E-mail: glicensing@era.wa.gov.au

Dear Mr Geaney

GAS, RETAILER OF LAST RESORT, DRAFT GUIDELINES

Origin refers to your Draft Guidelines for regulating a Supplier-of-Last-Resort (SoLR) function in the Western Australian gas retailing industry and in particular the declaration of a SoLR event and the preparation and implementation of a SoLR plan by the SoLR.

Origin Energy Retail Limited (Origin) has a licence to retail and distribute gas only at a site in Kalbarri, WA.

Although Origin has a limited involvement in the WA gas industry at this stage, it is interested in regulatory developments as they may affect Origin's future investment decisions. Origin's comments on the guidelines also reflect our experiences with RoLR regulation in other states. While recognising the unique circumstances in each jurisdiction, Origin also urges the jurisdictional regulators to seek to harmonise their approaches to gas regulatory issues as far as possible, as noted below.

Whilst Origin is aware that various jurisdictions have developed and implemented individual retailer-of-last-resort schemes, Origin strongly supports the AEMC position that there should be a single, nationally consistent arrangement. Such a national scheme would be subject to the MCE Working Group's deliberations.

In the absence of a national scheme Origin believes that the preferred jurisdictional schemes would be based upon local distributors being nominated as the retailer-of-last-resort, as they are probably best placed to spread the costs of a RoLR event over all the customers in the area. The distributors could sub-contract the actual supply of gas to third party retailers or wholesalers on a competitive tender basis. Similarly, they could contract out retailing functions to the retailers who tendered to perform the function most economically.

The approach recommended above also addresses the particular issue of market dominance by Alinta of gas retailing in Western Australia.

Origin notes that the current retailer, Alinta, has a very large market share. It would not be practicable for any other retailer to effectively be a RoLR if Alinta were unable to

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continue retailing, due to the scale of the task and, in particular, the volume of gas and transportation services that would need to be contracted at short notice.

Origin suggests that the distributor model of providing SoLR services may resolve this matter. However, if the decision was made that the responsibility in WA lay with a retailer, then Origin strongly recommends that the WA RoLR scheme should be limited to covering smaller, second-tier retailers especially since the MCE is still finalising its policy on this issue.

In regard to the Draft Guidelines, the following issues would be of concern to Origin if responsibility fell on a retailer to provide the SoLR service in WA.

1. Timing of Transfer (s2.3.3)

The Guidelines appear to allow the nominal Transfer Date of customers to the SoLR to be later than the date when the failed supplier ceased operations and the SoLR plan is activated.

This differs from the regulations in other jurisdictions where the SoLR takes over the affected customers immediately a SoLR event is declared and bills all the transferred customers from that date.

The current drafting raises the question of which retailer is responsible for and entitled to the revenue from supply to a customer in the interim period between when the previous retailer 'failed' (i.e. became legally ineligible to supply) and when the SoLR commences to legally supply the transferred customers. Any retailer supplying the customer in this period must be assured of receiving commensurate revenue to recover costs - either from customers or elsewhere.

Similarly, the networks and REMCo (or the relevant wholesale market operator) must be assured that there is always a financially responsible entity for supply to customers.

2. SoLR's Obligation in Plan (s3.2)

The SoLR must, as well as the other obligations usual to such SoLRs, '... periodically re-evaluate its supply arrangements to ensure that it will be able to purchase sufficient gas to supply any transferred customers'.

This is a particularly difficult issue for gas retailers given the market operates under long term gas supply and transportation contracts with very limited liquidity in the short term market. There is simply no equivalent in the gas market to the electricity market with its high level of financial and physical liquidity and standardised, rapidly transferable wholesale contracts.

Given this, does this clause in the Guidelines then contemplate that the SoLR would be actually contracting for wholesale gas supply which it would not need unless a SoLR event occurs? That would be a very onerous and potentially costly obligation. It could effectively mean that all wholesale gas supplies for small customers need to be double booked, contracted by the usual supplier and also by the SoLR. Not a reasonable requirement.



Without actually contracting for wholesale supply the SoLR may not be able to give any assurance as to its ability to supply the transferred customers particularly if the failing retailer was of similar or greater size than the defaulting retailer.

3. Contractual Arrangements (s3.3)

This clause appears to require the SoLR to have in effect, at all times, contracts with other entities, or spare, idle capacity in its operational staffing, sufficient to immediately commence all retail functions necessary to supply all the potentially transferred customers for which it has been appointed SoLR.

If that is the correct interpretation then these requirements are unreasonably arduous and could lead to the SoLR bearing continuous costs in anticipation of a (SoLR) event that will probably never occur.

More generally, Origin notes that these matters cannot be considered in isolation of cost recovery mechanisms. For instance, if the contractual arrangements discussed above were put in place, then it is appropriate that the industry as a whole funds these "standing costs", as in effect the retailer is providing a service to the industry as a whole.

It is also essential to consider matters such as whether the wholesale market balancing penalties, including transportation penalties, should be suspended for a given period.

It is economically unrealistic to expect that all the field activities of a failed retailer will continue with 'minimal or no disruption'. However, the affected customers may not be aware of any disruption even if the meter reading and bill issuing schedules are disrupted, providing their physical supply is not interrupted. Origin submits that the above issues require clarification and re-evaluation in finalizing the proposed Guidelines document.

Please direct any queries concerning these comments to Randall Brown on (03) 9652 5880.

Yours sincerely

Beverley Hughson
National Regulatory Manager
Retail