



22 November 2013

Committee Secretary
Senate Environment and Communications Legislation Committee

E: ec.sen@aph.gov.au

Dear Sir/Madam,

Inquiry into the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 and related bills

Origin Energy Limited (Origin) welcomes this opportunity to make a submission to this Senate inquiry.

Please find attached our submission to the Department of Environment on the exposure draft version of these bills. There have been no substantive changes to the legislation introduced to parliament compared to the exposure draft bills, so this submission remains relevant.

In summary, our two key issues are:

- 1) that sufficient notice is given to liable parties to implement repeal to ensure that any benefits from carbon price repeal are passed onto consumers in a timely manner; and
- 2) the ACCC price monitoring powers are broad and vague. We suggest a number of drafting improvements and request that further guidance on how the ACCC intends to apply these powers should be provided.

We support the joint industry submission of the Energy Supply Association of Australia (esaa), Energy Retailers Association of Australia (eraa), National Generators Forum (NGF), Energy Networks Association (ena) and the Australian Pipeline Industry Association (APIA) on this issue. Together these industry associations cover the vast majority of carbon price liable parties in the energy markets.

If you have any questions regarding this submission, please contact Matthew Kaspura (Manager Carbon Policy)

Yours sincerely,

Tim O'Grady
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Attachment – Origin submission to Department of Environment

04 November 2013

Carbon Tax Repeal Consultation
Carbon Tax Repeal Taskforce
Department of the Environment

E: repeal - submissions@environment.gov.au

Dear Sir/Madam,

Carbon tax repeal

Origin Energy Limited (Origin) welcomes this opportunity to make a submission on the exposure draft legislation to implement the repeal of the carbon pricing mechanism (CPM).

Origin acknowledges the Government's intention to repeal the CPM and will work with the Government to implement the repeal in an efficient and orderly manner.

We support the joint industry submission of the Energy Supply Association of Australia (esaa), Energy Retailers Association of Australia (eraa), National Generators Forum (NGF), Energy Networks Association (ena) and the Australian Pipeline Industry Association (APIA) on this issue. Together these industry associations cover the vast majority of CPM liable parties in the energy markets and raise important issues around the complexity involved in repealing the carbon price and the time that this will take.

About Origin

Origin is Australia's leading integrated energy company focused on gas exploration, production and export, power generation and energy retailing. A member of the S&P/ASX 20 index, the company has more than 6,000 employees and is a leading producer of gas in eastern Australia. Origin is Australia's largest energy retailer servicing 4.3 million electricity, natural gas and LPG customer accounts and has the country's largest and one of the most flexible generation portfolios with approximately 6,010 MW of capacity, through either owned generation or contracted rights. Origin is a significant investor in low emissions and renewable energy technologies and has diverse global renewable energy interests in geothermal, hydro, wind and solar technologies. Through Australia Pacific LNG, its incorporated joint venture with ConocoPhillips and Sinopec, Origin is developing one of Australia's largest CSG to LNG projects based on Australia's largest 2P CSG reserve base.

Submission structure

This submission contains two main sections:

- 1) Specific comments on the draft legislation - this includes comment about the proposed ACCC price monitoring powers and the conduct of future Renewable Energy Target (RET) reviews.
- 2) General comments about the complexity of the changes required in the energy markets to implement the repeal of the carbon price and how long such changes are estimated to take. Over six months formal notice was given for the implementation of the carbon price and a similar period should be given for its repeal to ensure that any benefits from carbon price repeal are passed onto consumers in a timely manner.

Attachment – Origin submission to Department of Environment

1) Specific comments on the draft legislation

Proposed ACCC price monitoring powers

Origin understands that the proposed price monitoring powers contained in the draft legislation are based on those used for the GST implementation. However, the carbon price is more complex than the GST and existing state regulators already contain powers to monitor electricity and gas prices. Therefore we believe these proposed powers should be tailored to more accurately reflect the practical aspects of the electricity and gas markets.

In general terms, we believe that the draft price monitoring provisions are vague and too broad. Please see **Appendix A** for details of our drafting suggestions.

RET reviews

With the proposed abolition of the Climate Change Authority the RET review function will be conducted by the Department of Environment. As this review should consider the cost and efficiency of the policy we recommend that the Productivity Commission has a role to play in the review. Therefore, we suggest that a clause should be inserted that the Department “must take into account” advice of the Productivity Commission on this matter.

2) General comments on the changes required in energy markets to implement repeal

The carbon price was a very complex piece of legislation to implement in the energy markets. Over six months formal notice was given for this implementation and based on our experience a similar period should be given for its repeal to ensure that any benefits are passed onto consumers in a timely manner. The comments below seek to explain the complexity of the changes required in the energy markets and why sufficient time is needed to ensure an orderly transition.

Electricity - wholesale

How carbon is passed through the electricity industry is complicated because of how the wholesale electricity market operates. Carbon costs are not readily identifiable within the electricity market because wholesale pricing is based on carbon inclusive prices. Electricity retailers will need time to determine the appropriate impact from repeal to be able to adjust customer pricing. Significant time is required because of the complexity and the range of contracts across the supply-chain which will need to be considered.

Generator bids will include carbon costs until the point at which legislation is passed and comes into effect. It is not practicable for pool prices to be reset retrospectively. We understand that the Australian Energy Market Operator (AEMO) cannot reset pool prices (legally and practically). There are no broad mechanisms currently available for revising wholesale gas or electricity prices, noting that the only electricity price revision mechanism relates to manifestly incorrect errors.

Participants are concerned about the stability of the National Electricity Market (NEM) wholesale market in the presence of uncertainty around repeal timing. Generators may factor that uncertainty into their bids and offers differently, e.g. some may price full carbon, some may price partial carbon, some may not price at all. This distorts the wholesale energy-only price signal of the market.

The potential issue for the Government and industry is that actual prices may not reduce from 1 July 2014, or may not reduce by as much as expected. As with the introduction of the carbon price, any reduction in carbon based on pool costs or removal of carbon under AFMA carbon clause (NEM emissions intensity related) would be based on retailers' forward cost estimates.

Attachment – Origin submission to Department of Environment

Electricity - retail

It is normal business practice for electricity retailers to hedge their exposure to volatile spot market prices by entering into hedge contracts, usually with electricity generators. This contracting is done in advance so that by the start of a financial year period electricity costs are largely fixed for that period.

Large customers (commercial and industrial) are on a range of different products with respect to carbon and retailers will need to calculate the impact of repeal on the particular contractual arrangements for each customer. Some customers have entered into carbon inclusive contracts in return for a lower price. The terms of these contracts mean that the price will not change upon repeal. The application of any ACCC powers must recognise the standing of these agreements which was a contractual mechanism to allocate risks made by large and sophisticated parties.

Retailers are constrained in how often they can vary retail prices for small customers each year. In some jurisdictions this is no more than every six months. Retailers will therefore be constrained in many cases in adjusting prices for small customers further. Retailers will need to adjust prices on 1 July as network prices (roughly half retailers' input costs) will change in many jurisdictions on that date. If the repeal is likely to take effect outside of this cycle provision should be made permitting retailers to change prices.

For retailers, implementing a price change is an operationally complex process. As these changes affect billing systems rigorous system testing has to be performed. This is a major undertaking, which involves change requests with external suppliers and probably back end changes to IT systems. In addition, there is considerable work to determine appropriate price adjustments, brief staff and prepare appropriate communications. Retailers need sufficient lead time (around 6 months) to implement such price changes.

Communicating the changes to over four million of our customers is significant undertaking. When the carbon price was implemented there were bill messages, bill inserts and significant training for call centre staff to field increased volumes of calls. These communications all required extensive review to make sure representations about the legislation and pricing were correct, which again adds time.

On the mass market side, retailers would ideally want time to allow NSW & Qld regulators to align tariffs with the Federal repeal legislation. There is currently uncertainty around how regulators will tackle this and hence the allowance for carbon that will be included in 2014-15 tariffs. Time will be required for regulators to adjust prices and for this to be communicated to retailers and customers.

There is an educational role for Government and jurisdictional regulators to play in honestly communicating the approximate expected price reductions resulting from the repeal of the carbon price and how this may vary because of a range of other factors which affect electricity bills. For example, distribution charges and other environmental costs (such as the RET and energy efficiency schemes) may also change around the same time that carbon is repealed, and this could create confusion for customers if not properly explained. These factors will also vary by customer type and jurisdiction.

Gas markets

Changes in the gas markets are similar to those described above for electricity and include the following significant issues:

- review of gas contracts and renegotiation as required (noting some large customers have also opted to take on carbon liability themselves);
- allowing jurisdictional regulators time to adjust prices;
- changes to billing systems;
- training call centre staff; and

Attachment – Origin submission to Department of Environment

- communicating these changes to customers.

If you have any questions regarding this submission, please contact Matthew Kaspura
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Yours sincerely,

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Appendix A – Suggested changes to proposed ACCC price monitoring powers

The price exploitation provisions contained in proposed amendments to the *Competition and Consumer Act 2010* are almost identical to those used for the GST. However, the carbon price is different and far more complex as it is not a fixed percentage cost.

As fundamental principles, the Government should:

- seek to provide certainty of application to avoid negative press regarding repeal implementation, unnecessary administrative costs and unrealistic expectations; and
- confirm that the intent is not to override existing contracts relating to carbon pass through or reductions where parties, particularly sophisticated commercial parties, have agreed a risk allocation and entered into contracts/arrangements in light of that risk profile.

Further, the Government should provide more guidance on determining price reductions in the particular circumstances of the NEM, including determining reductions in electricity wholesale costs given the energy only, wholesale pool and derivatives structure. The objective should be to remove any need for detailed modelling exercises given the cost and subjectivity involved.

The following are some suggestions to provide more certainty (or mechanisms by which certainty can be provided in the future) on the assumption that the Government will not accept carve outs or fundamental changes to the price exploitation provisions:

- Expand the relevant matters in section 60(2)(c) of the legislation, including:
 - *the reference to “supplier’s costs” should be expanded so as to remove the suggestion that the consideration is only to the supplier’s actual costs but also includes consideration of agreements or agreed proxies as to what constitutes the supplier’s costs (e.g. add “whether on a negotiated basis or actual”);*
 - *a principle that the negotiated terms of the contract relating to carbon is a relevant matter – i.e., the agreed risk allocation for carbon costs contracts and the circumstances applying at the time in which those contracts were entered into; and*
 - *any other matters specified in Regulations – this gives flexibility to add further matters after the legislation is finalised.*
- Insert a regulation making power providing the Government to specify what does not constitute price exploitation. Again, this gives flexibility after the legislation is finalised.
- Include a mandatory requirement on the ACCC to release guidelines (as was done for GST).
- Include detailed examples in the Explanatory Memorandum of how the price exploitation provisions will be applied. Ideally, it could expressly specify the application to certain contract classes as described above.

Origin also supports the drafting suggestions proposed in the joint esaa submission which include suggestions on how to revise section 60C(2)(c) to give more guidance on what matters should be taken into account – such as wholesale energy costs and network price determinations. Our suggestions should be read as complementing the drafting suggestions contained in the esaa joint submission.