



2 May 2018

Dr Michael Vertigan AC
Gas Market Reform Group
c/o Australian Energy Market Commission
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Submitted by email: enquiries@gmrg.coagenergycouncil.gov.au

Dear Dr Vertigan

Capacity Trading Reform Package: Draft legal and regulatory framework – Consultation Paper

Origin Energy Limited (Origin) welcomes the opportunity to provide comments on the Gas Market Reform Group's (GMRG) Day-Ahead Auction of Contracted but Un-Nominated Capacity & Reporting Framework Consultation Paper.

As requested, Origin has provided comments in response to some of the additional design questions raised by the GMRG and elements of the draft rules in Attachment 1. A summary of the key points that should be considered in finalising the legal/regulatory arrangements is provided below.

- *Defining firm capacity:* The proposed legal/regulatory changes largely reflect the intent of the GMRG's final recommendations, particularly with respect to ensuring the rights of firm capacity holders (including renomination rights) are not impeded. But Origin believes the definition of firm under rule 647 should be amended to reflect the following.
 - Firm services are not generally defined by reference to third parties' nominations, as described under 647(firm)(b). A more appropriate description would be 'in normal operating conditions, a service provider has an absolute obligation to supply that transportation service on request for a stated reserved capacity'.
 - An additional sub-rule 647(firm)(d) should be added to specify that 'a renomination made after the nomination cut-off time for use of the transportation service on the gas day up to the quantity of reserved capacity will, in normal operating conditions, be scheduled and not curtailed.'

In the absence of (d) we remain concerned that best endeavours renomination rights may potentially fall under the definition of a 'lower tier' service, which is inconsistent with the recommendation to protect firm renomination rights (both firm and reasonable endeavours).

- *Addressing any contractual limitations to capacity trading:* Origin is strongly supportive of allowing shippers to request and negotiate amendments to facility agreements on a case by case basis to overcome any contractual impediments to capacity trading. This approach is preferential to prescribing specific terms in the National Gas Law (NGL) and National Gas Rules (NGR).
- *Treatment of market operator service (MOS) bids:* Day-ahead nominations cannot factor in MOS requirements, which are determined retrospectively based on the difference between final nominations and actual flows. But the provision of MOS is still treated as a delivery to the Short Term Trading Market (STTM) hub by the pipeline operator and requires access to capacity on the

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day. The requirement to relinquish all un-nominated pipeline capacity is therefore problematic, as it exposes MOS providers to additional (and unforeseen) transportation changes attributable to using capacity in excess of the shipper's firm nominated rights, which may ultimately compromise their ability to provide that service. To address this, Origin believes that in addition to retaining access to firm nominated capacity and renomination rights on the gas-day, shippers should also retain access to the volume of capacity allocated to their MOS bids.

- *Grandfathering existing as available and authorised overrun rights for gas-fired generation:* Origin understands the rationale for grandfathering certain rights (e.g. as available and authorised overrun rights) held by gas-fired generators. But the current proposal may be difficult to implement from an operational and compliance standpoint due to the following issues.
 - The transitional rule appears to only grandfather as available and authorised overrun rights at pipeline service points used solely for a gas-fired generator. Given a shipper may be required to transport gas across multiple pipeline facilities (and potentially call upon equivalent contractual rights across each of those facilities) in order to supply a generation site, grandfathering rights at the service point only may be of limited use.
 - In the event the above issue is overcome and grandfathered rights can notionally be carried across multiple facilities, it would be difficult to demonstrate that a particular capacity right is specifically tied to a generation facility and that those rights should therefore be grandfathered.

Consistent with this, Origin believes it would be more practical to remove any ambiguity and grandfather all existing as available and authorised overrun rights for the proposed two-year transitional period.

- *Obligation to report capacity trades:* The requirement to report trades by one business day after the 'trade date' under 190A(3) is overly onerous and should be extended to at least two days. This will still ensure information relating to capacity trades is published in a practical timeframe.
- *Requirement to report pricing information relating to capacity trades:* Origin does not believe the transaction price disclosure requirements under rule 141(2A) are adequately defined. Under the current wording, where a transportation capacity transaction is linked to other gas agreements/arrangements (including for supply), 141(2A) would likely trigger disclosure of pricing associated with these other arrangements/agreements. This would not be appropriate and is inconsistent with the intent of the reporting requirements. Rule 141(2A) should therefore be amended to ensure any price disclosure requirements relate to transportation services only.

If you wish to discuss any aspect of this submission further, please contact Shaun Cole at shaun.cole@originenergy.com.au or on 03 8665 7366.

Yours Sincerely,



Steve Reid
Group Manager, Regulatory Policy

1. Explanatory note questions

	Questions	Feedback
3.4 Questions on the overall legal and regulatory framework		
1.	Do you believe the proposed amendments to the NGL, Regulations and NGR implement the design of the capacity trading reforms effectively? If not, why not?	Origin believes the draft amendments are largely consistent with the GMRG's final recommendations, particularly with respect to ensuring the rights of firm capacity holders (including renomination rights) are not impeded. But as discussed above, an issue that warrants further consideration is the treatment of market operator service (MOS) bids on Short Term Trading Market (STTM) pipelines. Given day-ahead nominations cannot factor in MOS allocations, the requirement to relinquish all un-nominated capacity exposes MOS providers to additional (and unforeseen) costs and may ultimately compromise their ability to provide that service. To address this, in addition to retaining access to firm nominated capacity and renomination rights on the gas-day, shippers should also retain access to the volume of capacity allocated to their MOS bids.
4.1.1 Exemptions		
6.	Having regard to the objectives of the capacity trading reforms and the Energy Council's approval of the GMRG's recommendation on coverage of the auction, do you agree with the proposal to: <ul style="list-style-type: none"> ▪ Apply the same exemption criteria to the obligation to publish a standard operational agreement and the auction? If not, why? Replace the single end-user facility criterion, with a single shipper criterion? If not, why?	Origin is supportive of the proposed exemption criteria.
4.1.2 Governance model for the Code		
10.	Do you agree with the proposal to allow the AER to play a more proactive role in overseeing modifications to the Code? If not, please explain why.	Where the AER is empowered to initiate modifications to the Code, it is essential the regulator is still required to consult with the Industry Panel and other stakeholders prior to implementing any modification, consistent with the draft Rule 604.
11.	Do you agree with the proposed composition of the OTS Code Panel, which will comprise: two service providers, two shippers (one of which must be a large end-user) and AEMO? If not, please explain why not and the changes you	The proposed OTS Code Panel composition is appropriate.

	Questions	Feedback
	would suggest be made to the composition of the OTS Code Panel.	
4.1.3 Measures to address contractual limitations in facility agreements		
12.	Do you agree with the proposal to use a request and negotiate framework, rather than a standard form agreement model or more prescriptive provisions in the NGR to overcome the limitations on capacity trading in facility agreements? If not, please explain why.	Origin is strongly supportive of allowing shippers to request and negotiate amendments to facility agreements on a case by case basis to overcome any contractual impediments to capacity trading. This approach is preferential to prescribing specific terms in the NGL and NGR.
16.	<p>Do you agree with the proposal in rule 643(6) to restrict the ability of service provider's to make its consent on a receipt or delivery point change conditional on obtaining the consent of a third party but only:</p> <p>(a) where the transportation service provider would be in breach of contract if it gave effect to the request without the consent of the third party; and</p> <p>(b) if the third party is another transportation facility user or an associate of another transportation facility user, the requirement to obtain that person's consent arises under a contractual provision entered into before 3 January 2018.</p> <p>If not, why?</p>	Origin is broadly supportive of rule 643(6), given it will allow service providers to consider the rights of existing contract holders prior to consenting to delivery/receipt point change requests.
4.1.4 Governance arrangements for the specification of zones		
17.	Do you agree with the GMRG's proposed change to the governance arrangements for the specification of zones? If not, please explain why not and set out the arrangements that you think should be employed.	<p>Allowing AEMO to determine the zones that will be used for the capacity trading platform and day-ahead auction is appropriate, noting AEMO will also be required to:</p> <ul style="list-style-type: none"> ▪ consult with market participants on the proposed grouping of delivery/receipt points within a given zone prior to implementation; and ▪ once implemented, publish information about the ability to transfer capacity between points within each zone. <p>The inclusion of rule 627(e) is also essential to ensure the confidentiality of commercially sensitive information, potentially provided to AEMO by service providers to inform the development of zones, is protected.</p>

	Questions	Feedback
19.	Do you agree with the information disclosure obligations that service providers would be subject to under the NGR?	See response to Question 17 above.
5.1.1 Grandfathered rights		
22.	Do you think the proposal to limit the availability of grandfathered rights to gas fired generators for use at their generation plant is appropriate? If not, please explain why	<p>Origin understands the rationale for grandfathering certain rights (e.g. as available and authorised overrun rights) held by gas-fired generators. But the current proposal may be difficult to implement from an operational and compliance standpoint due to the following issues.</p> <ul style="list-style-type: none"> ▪ The transitional rule appears to only grandfather as available and authorised overrun rights at pipeline service points used solely for a gas-fired generator. Given a shipper may be required to transport gas across multiple pipeline facilities (and potentially call upon equivalent contractual rights across each of those facilities) in order to supply a generation site, grandfathering rights at the service point only may be of limited use. ▪ In the event the above issue is overcome and grandfathered rights can notionally be carried across multiple facilities, it would be difficult to demonstrate that a particular capacity right is specifically tied to a generation facility and that those rights should therefore be grandfathered. <p>Consistent with this, Origin believes it would be more practical to remove any ambiguity and grandfather all existing as available and authorised overrun rights for the proposed two-year transitional period.</p>
24.	Are there any other limitations that you think should be placed on the availability and/or use of grandfathered rights?	See response to Question 22 above.
5.1.2 Contract path specification		
25.	<p>Do you agree with the GMRG's proposal to use the hybrid model for forward haul and compression services? If not, please explain why and in doing so:</p> <ul style="list-style-type: none"> ▪ set out the approach you think should be employed; and ▪ why you think this approach is more consistent with the objectives of the capacity trading reform package, the NGO and the Energy Council's Vision. 	Origin is broadly supportive of the proposed hybrid model. Under this model, It will be important that AEMO ensures confidential information relating to gas-fired generation nominations are not revealed (either directly or indirectly) through the publication of contracted but un-nominated capacity at receipt/delivery points, consistent with rule 657(3).
5.1.3 Methodology used to calculate auction quantity limits		

	Questions	Feedback
28.	Do you agree with the proposal to require the methodology to be used to calculate the auction quantity limits to be specified in the Auction Procedures? If not, why?	Origin is supportive of this approach.
29.	Do you think any additional principles need to be included in the NGR to guide AEMO's development of this methodology? If so, please specify the principles and why you think they are required.	As discussed above, Origin believes that in addition to retaining access to firm nominated capacity and renomination rights on the gas-day, shippers should also retain access to the volume of capacity allocated to their MOS bids. This recommendation would also need to be taken into consideration when determining auction limits and may therefore need to be reflected in rule 653.
5.1.4 Other matters		
34.	Are there any other types of information that you think could be published that have not already been identified, which would allow auction participants to better understand the risks?	Origin remains of the view that there is merit in publishing the auction bid-stack to inform future capacity trades conducted through the secondary trading platform or bilaterally. We also do not agree that the gaming issues identified by NERA are likely to arise based on the level of expected participation in the auction.
7.1 Allocation arrangements		

2. National Gas Law Amendments (Capacity Trading and Auctions)

Amendment	Issue	Feedback
Schedule 1 – Amendment of National Gas Law		
13	Chapter 2, Part 6, Divisions 2C–2E	91BRM(2) states that 'AEMO may trade in transportation capacity to the extent necessary or desirable for the efficient operation of a capacity auction'. Given AEMO's function is to operate the auction rather than trade in capacity, 91BRM(2) should be removed or reworded to reflect their operational role.

Part 18 – Natural Gas Services Bulletin Board

Draft Rules	Issue	Feedback
Division 1 – Interpretation and application		

Draft Rules	Issue	Feedback
141	Interpretation	Origin does not believe the transaction price disclosure requirements under (2A) are adequately defined. Under the current wording, where a transportation capacity transaction is linked to other gas agreements/arrangements (including for supply), (2A) would likely trigger disclosure of pricing associated with these other arrangements/agreements. This would not be appropriate and is inconsistent with the intent of the reporting requirements. (2A) should therefore be amended to ensure any price disclosure requirements relate to transportation services only.
Division 5 – Information to be provided by BB reporting entities		
190A	Obligation to report	The requirement to report trades by one business day after the 'trade date' under 190A(3) is overly onerous and should be extended to at least two days. This will still ensure information relating to the trade is published in a practical timeframe.
Division 7 – Publication of information by AEMO		
195A	Publication of capacity transaction information	Origin cautions against any requirements that would reveal commercially sensitive information that could undermine a shipper's position in the gas market, or a related market such as electricity. Additional measures are therefore required under 195A to ensure commercial-in-confidence information is protected, particularly in cases where there are only two shippers on a given pipeline.

Part 24 – Facilitating capacity trades and the capacity auction

Draft Rules	Issue	Feedback
Division 1 – Preliminary		
593	Definitions and interpretation	Consideration should be given to amending the definition of 'operational capacity' to specify that it is determined by the transportation service provider. 'Renominations' have not been defined within Part 24 and should be linked to the definition provided in Part 25.
Division 2 – Operational Transportation Service Code		
597	Standard operational transportation services and auction services	Origin has the following queries with respect to 597(3)(c). <ul style="list-style-type: none"> Under some primary facility agreements, capacity nominations and renomination can either be made by a shipper, or be deemed to have been provided. Does the current wording allow for deemed nominations and renominations?

		<ul style="list-style-type: none"> Is 597(3)(c)(ii) intended to be limited to agreements entered into through the capacity trading platform or auction platform under standard terms? If so, this should be specified.
Division 6 – Other service provider obligations		

Part 25 – Capacity Auction

Draft Rules	Issue	Feedback
Division 1 – Preliminary		
647	Definitions and interpretation	<p>The definition of firm should be amended to reflect the following.</p> <ul style="list-style-type: none"> Firm services are not generally defined by reference to third parties' nominations, as described under (b). A more appropriate description would be 'in normal operating conditions, a service provider has an absolute obligation to supply that transportation service on request for a stated reserved capacity'. An additional sub-rule (d) should be added to specify that 'a renomination made after the nomination cut-off time for use of the transportation service on the gas day up to the quantity of reserved capacity will, in normal operating conditions, be scheduled and not curtailed.' <p>In the absence of (d) we remain concerned that best endeavours renomination rights may potentially fall under the definition of a lower tier service, which is inconsistent with the recommendation to protect firm renomination rights (both firm and reasonable endeavours).</p>
Division 2 – Capacity auction		
650	Auction services	As discussed above under 647, it is essential renominations are not inadvertently characterised as a lower tier service.
651	Auction service priority principles	Consistent with 591, consideration should be given to specifying that a capacity shortfall is determined by the transportation service provider.
652	Capacity auction design principles	Rule 652(12) allows the Auction Procedures to specify that auction results are to be treated as final and not subject to review or the payment of compensation in the event of error in the determination of auction results. While this may be appropriate in some instances, any such direction should be limited to cases where there has not been a manifest error.

Schedule 5 Transitional Provisions for the introduction of the capacity trading reforms

Draft Rules	Issue	Feedback
Part 4 – Transitional arrangements for new Part 25 (other than compression reporting)		
3	Protected services	As discussed above in response to Question 22, the current definition of protected services may be difficult to implement from an operational and compliance standpoint. It would be more practical to remove any ambiguity and grandfather all existing as available and authorised overrun rights for the proposed two-year transitional period.