

8 August 2019

Mr John Pierce AO
Chair
Australian Energy Market Commission
Level 6, 201 Elizabeth Street
Sydney NSW 2000

Submission to Regulatory Sandbox Arrangements – Draft Report

Dear Mr Pierce,

Thank you for the opportunity to provide a submission to the AEMC’s recently published Regulatory Sandbox Draft Report.

Energy Networks Australia is the national industry body representing Australia’s electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia.

Energy Networks Australia strongly supports development of regulatory sandboxes that allow innovative projects which are in the interests of consumers to be more easily tested and implemented.

Innovation is a key driver of long-term customer value and will always have a place in the Australian energy system. The regulatory sandbox initiative should be actively pursued by the AEMC and COAG Energy Council with design principles centred on promoting the long-term interests of customers consistent with the National Electricity and Gas Objectives.

General comments

Energy Networks Australia generally supports the AEMC’s proposed sequential framework for assisting and enabling innovative trials to take place. Our comments on each part of the framework are outlined below.

Innovation could be further enabled if the arrangements provided a level of transparency through reporting or other approach to allow others to learn and leverage from successful and unsuccessful trials. Transparency arrangements should be balanced with appropriate protection mechanisms to maintain confidentiality of commercially sensitive information or assurances that information provided in support of applications would not be used for other purposes that may be of detriment to proponents (and which may inhibit innovation).

Energy Networks Australia believes it is vital that the good intent of this reform should not be lost to an overly cumbersome and restrictive approach to the test that the AER may decide to run in order to grant waivers and complex accompanying guidelines. Tests should be simple in nature, for instance the test could be broadly based off the National Energy Objective.

Energy Networks Australia also believes it will be beneficial for the National Energy Rules to provide that any trial run through a sandbox process should not unduly impede

on a Network Service Provider's responsibility to provide network services efficiently, safely and in line with the National Energy Law. Maintaining a safe and reliable network should still be a priority in all circumstances.

It would also be beneficial if the AEMC could clarify how the proposed framework would be funded or what possible cost-recovery arrangements should be.

Regulatory Guidance

Energy Networks Australia supports the regulatory guidance draft recommendation and all of the principles outlined by the AEMC for its provision. The recommendation should provide trial proponents with the information they need to determine the next steps for their trial.

Energy Networks Australia also sees value in including a specified time period for the AER to respond to trial proponents' request for regulatory guidance. A specified time period for response would mean that the AER would be required to provide the information which the trial proponent is seeking or request further information from the trial proponent within a specified time period. This would give trial proponents some certainty as to when they are likely to receive advice given timelines may otherwise be unknown to the trial proponent and could be variable depending on AER workload.

With the above addition to the framework, Energy Networks Australia believes the design of the innovation inquiry service will improve the level of guidance available to proof-of-concept trial proponents.

Regulatory Waivers

Energy Networks Australia broadly supports the regulatory waiver draft recommendation and the principles outlined for its administration. The types of trials initiated under a regulatory sandbox framework are likely to be varied in their nature, time scale and purpose.

Energy Networks Australia notes that it is important that the regulatory sandbox framework facilitates the provision of trials which are designed to operate over a very long period of time. Some trials related to transmission and distribution in the past have taken place over several years. For example, if a network wants to trial an innovative way of undertaking their regulatory proposal, the trial period may have to last up to seven years. Two years for development and consultation and five years to trial the approach over forthcoming regulatory period.

Energy Networks Australia also sees merit in a mechanism to allow a trial to be extended in circumstances where the results of the trial technology have yet to be determined. The rationale is to prevent costs and uncertainty associated with reapplication by trial proponents and reduce the regulatory burden for both the network and the regulator.

To this end, the AER should be granted the ability to extend trials in situations where, for example, technologies require a rare weather or market event to occur before their functionality is tested and proven to be successful or not. In such an instance, where say a technology is trialing innovative ways to orchestrate demand response through a heatwave that has not yet eventuated, the AER could extend the trial beyond the originally designated trial period.

Alternatively, there could be clauses in the original terms of the trial which stipulate that the trial will continue until specific circumstances arise where the innovative technology can prove itself, for instance a heatwave of specific magnitude.

Energy Networks Australia also believes that there should be a mechanism to extend successful trials where the trial period is ending and an associated rule change will take time to make the trial compliant with the rules. For example, a technology may have proven as a viable innovative addition to networks which will deliver customer benefits, but the trial period is ending, rendering the technology non-compliant with the rules. The regulatory waiver should be extended so the technology can continue operating and delivering benefits while a rule change process is undertaken.

Energy Networks Australia also sees it as vital that the AER's power to grant regulatory waivers should encompass the National Gas Rules. Decarbonising gas networks is a high priority for gas distribution businesses and governments. Hydrogen and other renewable gases will need to be successfully produced and integrated into gas networks to pursue decarbonisation goals. Technology trials under a regulatory sandbox framework for hydrogen and renewable gas will be highly beneficial for Australia's renewable gas industry development.

Trial rule changes

Energy Networks Australia supports the trial rule making process under the current rule making tests. Trials should still seek to promote efficient investment, operation and security of energy supply which is in the long-term interests of customers.

Energy Networks Australia agrees with the AEMC's position of only undertaking expedited rule changes if the request is non-controversial or urgent and only undertaking fast-tracked rule changes when there has been adequate previous public consultation by regulatory bodies or if the request arises from an AEMC review. A fast-tracked or expedited rule change process should be reserved for rare instances where a waiver is insufficient to facilitate innovative trials and where there are only minor potential negative customer outcomes.

It is important that the trial rule making process should encompass the National Gas Rules because gas distribution businesses are investing in innovative technologies and processes such as electrolysers and hydrogen blending. It is possible, even likely in the longer term, that gas networks will need some form of rule change to deliver the benefits of renewable gas to customers.

If you would like to discuss any of the above points please contact Chris Gilbert at 03 9103 0409 or cgilbert@energynetworks.com.au

Yours sincerely,



Andrew Dillon
Chief Executive Officer