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Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Submitted by email to aemc@aemc.gov.au

Project number: EPR0068

Regulatory sandbox arrangements Consultation paper

Snowy Hydro Limited welcomes the opportunity to comment on matters raised in the Consultation Paper from the Australian Energy Market Commission (the Commission) on the Regulatory sandbox arrangements.

Snowy Hydro Limited is a producer, supplier, trader and retailer of energy in the National Electricity Market ('NEM') and a leading provider of risk management financial hedge contracts. We are an integrated energy company with more than 5,500 megawatts (MW) of generating capacity. We are one of Australia's largest renewable generators, the third largest generator by capacity and the fourth largest retailer in the NEM through our award-winning retail energy companies - Red Energy and Lumo Energy.

Snowy Hydro understand that in an electricity market undergoing a rapid transformation the emergence of innovative technologies and business models in the NEM can bring significant benefits to consumers. There are currently a range of government grant programs available to assist companies with funding trial energy projects.

The regulatory framework provides the sufficient flexibility required for the different institutions to support proof of concept trials. There is no evidence that a formal regulatory sandbox arrangement would make it easier for additional proof of concept trials to take place to achieve better customer outcomes. Therefore, we do not support formalising these arrangements in the rules to facilitate trials within the NEM.

Should the regulatory sandbox proceed it would allow participants to trial innovative business models products and services in the market under relaxed regulatory requirements on a time-limited basis and with appropriate safeguards in place. Snowy Hydro however notes that the regulatory sandbox should not become a means to change regulation on a permanent basis, this should be left with the Commission to undertake established and full consultations leading up to industry-wide changes which are available to all parties. Trials can be misleading when they are undertaken in small environments and not under realistic operating conditions.

Government Grant Programs

Snowy Hydro notes that there are a range of government grant programs available to assist companies with funding trial energy projects. Eligibility requirements can differ significantly across programs and jurisdictions however funding sources are not limited to grant programs. They also include co-financing packages, loans, tax incentives and other innovative financing solutions across

the NEM. Many are designed to support transition to a low carbon economy or to help overcome barriers to trial technologies.

The Clean Energy Finance Corporation and the Australian Renewable Energy Agency (ARENA) are two agencies that funds projects that develop technologies and improve investor confidence in renewable energy projects.

Trials under AER enforcement discretion

The Commission notes that no action letters are generally developed by the Australian Energy Regulator (AER) on a case-by-case basis after discussions with the affected party. No action letters can be used when a new rule is coming into effect and circumstances mean businesses are not in a position to comply in time. Snowy Hydro therefore notes that if “no action letters” can be used when a new rule is coming into effect that the AER show significant transparency to avoid duplication and ultimately costs. We do however understand that commercially-sensitive information may be withheld from public reporting, including the innovator’s intellectual property, unless otherwise agreed.

The AER also publishes the Electricity Distribution Ring Fencing Guidelines that requires DNSPs to separate their regulated monopoly business from their contestable activities. Nevertheless, DNSPs are free to apply for waivers from these requirements that are set out in the guideline if there is no adverse impact on consumers.

Under the AER’s Demand Management Innovation Allowance Mechanism (DMIA) the AER provides funding to the Distribution Network Service Provider (DNSP)s to undertake research on the network on how to deliver more innovative demand side solutions in order to defer augmentations. In addition, the AER provides funding for DNSP to undertake demand side activities under the Demand management Incentive Scheme (DMIS). This scheme can provide efficient alternatives to network augmentations, by deferring the need for investment to relieve network constraints.

Regulatory sandbox trials

The AER and other market bodies need to ‘keep the lights on’ in the NEM while balancing their primary focus of regulating electricity supply and trading markets while engaging with disruptive innovation. Trials in the regulatory sandbox would not be tested in a realistic operating environment making the focus to ‘keep the lights on” unmeasurable.

The regulatory sandbox allows businesses to discuss with innovators and listen to their views on the market while also assisting in policy development. However Snowy Hydro strongly believe that the Demand Response Mechanism (DRM) and other wholesale demand response suggestions should not be trialled through the sandbox because it is unable to provide any evidence on how it would respond under a realistic operating condition in the NEM and that costs that would be involved.

The consultation paper has suggested mechanisms adopted by other jurisdictions, such as the one adopted by the Office of Gas and Electricity Markets (OFGEM) in the United Kingdom (UK). The regulatory sandbox is Ofgem’s means of allowing innovative projects otherwise blocked by existing regulation to proceed and operate in a controlled environment, with the ambition of helping new technologies and further develop regulation for a more decentralised energy market¹.

¹ OFGEM, “What is a regulatory sandbox”, Last updated: September 2018

Snowy Hydro notes that when trials face regulatory barriers, Ofgem, the UK Government and a number of other industry bodies that oversee different parts of the market and regulatory arrangements can not commit to being able to remove all of the barriers that are identified but help innovators to shape their models to wholly align with existing regulatory requirements². Snowy Hydro strongly cautions against any approach in the NEM where regulatory trials could be permanently imposed leading to significant costs on industry, system costs on AEMO that it will recover from other participants, or has potential risks for consumers.

Snowy Hydro appreciates the opportunity to respond to the Consultation Paper and any questions about this submission should be addressed to Panos Priftakis, Regulation Manager, by e-mail to panos.priftakis@snowyhydro.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Ly', with a horizontal line underneath.

Kevin Ly
Head of Wholesale Regulation
Snowy Hydro

² OFGEM, "What is a regulatory sandbox", Last updated: September 2018