

12 August 2019

Mr John Pierce AO
Chair
Australian Energy Market Commission
Submitted online
Your ref: EPR0068

Level 22
530 Collins Street
Melbourne VIC 3000

Postal Address:
GPO Box 2008
Melbourne VIC 3001

T 1300 858724
F 03 9609 8080

Dear Mr Pierce

Submission on regulatory sandbox arrangements to support proof-of-concept trials

The Australian Energy Market Operator (AEMO) thanks the Australian Energy Market Commission (AEMC) for the opportunity to provide comment on its draft report, *Regulatory sandbox arrangements to support proof-of-concept trials* (the Draft Report).¹ AEMO made a submission to the AEMC's initial Consultation Paper for this review² and was part of discussions with the AEMC and other energy market institutions that informed the Draft Report.³

The ability to efficiently and effectively conduct proof-of-concept trials of new service models and approaches has an important role to play in ensuring the energy transition is navigated as smoothly as possible and at lowest total system cost. The Draft Report outlines three tools that are proposed to support proof-of-concept trials: a new regulatory guidance service for innovators, an Australian Energy Regulator (AER) power to grant waivers of existing regulations; and a new AEMC trial rule change mechanism. AEMO supports the three proposed measures. This submission provides comments on how each proposal can best be implemented to deliver maximum value for energy consumers and the market as a whole.

The sections below make observations and suggestions about the operation and implementation of each of the proposed mechanisms. Subject to these comments, AEMO supports the implementation of the three proposed measures.

1. Innovation inquiry service

This measure seeks to ensure innovators and proof-of-concept trial proponents receive fast and frank feedback about their ideas from market bodies. In response to submissions, the inquiry service specifically caters to new businesses that do not have existing contacts within AEMO, AEMC, the AER and the Australian Renewable Energy Agency (ARENA).

¹ Published 11 July, 2019. Available at: <https://www.aemc.gov.au/market-reviews-advice/electricity-network-economic-regulatory-framework-review-2019>

² AEMO, *Supporting proof-of-concept trials using a regulatory sandbox approach*, January 2019, available at: https://www.aemc.gov.au/sites/default/files/2019-02/AEMO_0.PDF

³ Other participants were the Australian Energy Regulator (AER), Australian Renewable Energy Agency (ARENA) and Energy Consumers Australia (ECA).

Where the service refers innovators to AEMO, they will receive assistance from AEMO in line with our existing approach, which seeks to support all participants, existing or prospective, to offer services to consumers. New service offerings will be at the heart of how the industry solves the numerous complex issues presented by the transition of the energy system. The inquiry service, and the advice from market bodies that it will facilitate, will play an enabling role in the development of new services.

AEMO also notes that the draft proposal deliberately avoids formalising engagements through the inquiry service (with timelines or other requirements). This approach is consistent with the intention for the advice be provided quickly and usefully to proponents.

2. AER regulatory waiver power

This measure would empower the AER to grant time- and scope-limited waivers to existing National Electricity Rule (NER), National Gas Rules (NGR) and National Electricity Retail Rules (NERR) provisions for the purposes of a proof-of-concept trial, subject to certain requirements and restrictions, including

The Draft Report proposes imposing a requirement on the AER to develop a Sandbox Guideline, to provide a clear and transparent framework for trial proponents and market participants. The Guideline would also set out requirements for trials, including:

- eligibility criteria
- a specific trial waiver test that ensures the trial is likely to contribute to the achievement the National Electricity Objective (NEO), National Gas Objective (NGO) or National Electricity Retail Objective (NERO)
- other conditions potentially imposed by the AER, including relating to consumer protections and reporting.⁴

AEMO believes such an approach is appropriate. AEMO notes that the it will be important that the Guideline also provides for two things. Firstly, where a proposed trial stands to impact AEMO's operation of the power system or an energy market, a process for ensuring appropriate review and input from AEMO on the proposed trial design. Secondly, the Guideline should address any perceived conflict for AEMO in both playing the above role in reviewing trials and being a trial proponent ourselves. Under those circumstances, AEMO would be both the recipient of a waiver and be playing the role of considering certain impacts of a potential waiver, as we would expect to for any trial with the above potential impacts.

3. AEMC trial rule change process

The third tool proposed in the Draft Report is a new AEMC rule change process specifically to facilitate proof-of-concept trials. The AEMC proposes that the process take less than eight

⁴ AEMC, above n 1, 27.

weeks, have a single round of consultation and allow the AEMC to impose other restrictions, conditions and requirements for proponents to provide the AEMC with information about trial.⁵

AEMO seeks to – and has successfully – designed and commenced trials of new concepts and market designs within the current regulatory regime, for example, the current Virtual Power Plant (VPP) trials.⁶ However, where no other route is able to facilitate important proof-of-concept work, the trial rule change process will deliver value to consumers and the industry. There is, however, an obvious risk of attempted misuse of such a tool, including as a way to covertly introduce lasting change, without appropriate scrutiny. The AEMC is aware of these risks and has considered them at length in putting forward the trial rule change model contained in the Draft Report. In relation to the design of the trial rule change, AEMO notes the particular importance of:

- A clear stipulation that the trial rule change process is a last resort, after the possibilities of trials within the current rules or under an AER waiver have been exhausted
- Clear guiding principles, objectives and rule-making tests
- Appropriate scope and time constraints, including sunset clauses, that minimise the risk posed by possible unforeseen disruption to energy markets or system operations.

AEMO looks forward to contributing to the development of the regulatory sandbox arrangements further, once the AEMC's final advice has been provided to the COAG Energy Council.

If you would like to discuss anything related to this matter further, please contact Kevin Ly, Group Manager - Regulation, on 02 9239 9160 or kevin.ly@aemo.com.au.

Yours sincerely



Peter Geers
Chief Strategy and Markets Officer

⁵ Ibid, 32.

⁶ For more info see <https://www.aemo.com.au/Electricity/National-Electricity-Market-NEM/DER-program/Virtual-Power-Plant-Demonstrations>