

8 August 2019



Mr John Pierce AO
Chair
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr Pierce

**ERP0068 Regulatory Sandbox Arrangements to Support Proof-of-Concept Trials
– Draft Report**

Energy Queensland Limited (Energy Queensland) welcomes the opportunity to provide comment to the Australian Energy Market Commission (AEMC), on its consultation on the *Sandbox Arrangements to Support Proof-of-Concept Trials – Draft Report*. This submission is provided by Energy Queensland, on behalf of its related entities Energex Limited (Energex), Ergon Energy Corporation Limited (Ergon Energy), Ergon Energy Queensland Limited (Ergon Energy Retail) and Yurika Pty Ltd (Yurika).

Energy Queensland has addressed the questions raised in the Draft Report in the attached submission.

Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact myself or Barbara Neil on (07) 4432 8464.

Yours Sincerely

A handwritten signature in cursive script, appearing to read "Trudy Fraser".

Trudy Fraser
Manager Policy and Regulatory Reform

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Encl: Energy Queensland's submission

Energy Queensland Submission on the Regulatory Sandbox Arrangements to Support Proof-of-Concept Trials

Draft Report

Energy Queensland Limited
8 August 2019



About Energy Queensland

Energy Queensland Limited (Energy Queensland) is a Queensland Government Owned Corporation that operates a group of businesses providing energy services across Queensland, including:

- Distribution Network Service Providers, Energex Limited (Energex) and Ergon Energy Corporation Limited (Ergon Energy);
- a regional service delivery retailer, Ergon Energy Queensland Pty Ltd (Ergon Energy Retail); and
- affiliated contestable business, Yurika Pty Ltd (Yurika), which includes Metering Dynamics Pty Ltd (Metering Dynamics).

Energy Queensland's purpose is to "safely deliver secure, affordable and sustainable energy solutions with our communities and customers" and is focussed on working across its portfolio of activities to deliver customers lower, more predictable power bills while maintaining a safe and reliable supply and a great customer experience.

Our distribution businesses, Energex and Ergon Energy, cover 1.7 million km² and supply 37,208 GWh of energy to 2.1 million homes and businesses. Ergon Energy Retail sells electricity to 740,000 customers.

The Energy Queensland Group also includes Yurika, an energy services business creating innovative solutions to deliver customers greater choice and control over their energy needs and access to new solutions and technologies. Metering Dynamics, which is a part of Yurika, is a registered Metering Coordinator, Metering Provider, Metering Data Provider and Embedded Network Manager. Yurika is a key pillar to ensuring that Energy Queensland is able to meet and adapt to changes and developments in the rapidly evolving energy market.

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1 Introduction

Energy Queensland Limited (Energy Queensland) welcomes the opportunity to provide comment to the Australian Energy Market Commission (AEMC) on its Regulatory Sandbox Arrangements to Support Proof-of-Concept Trials – Draft Report (Draft Report). This submission is provided by Energy Queensland, on behalf of its related entities Energex Limited (Energex), Ergon Energy Corporation Limited (Ergon Energy), Ergon Energy Queensland Limited (Ergon Energy Retail) and Yurika Pty Ltd (Yurika).

Energy Queensland broadly supports the framework proposed for regulatory sandbox trials. In particular, we agree that the innovative trials will provide favourable outcomes for customers, and as such, consumer protections should be preserved throughout the trial process and given due consideration in assessing any waiver or trial rule change applications. Furthermore, we suggest that intellectual property rights also be protected throughout any regulatory sandbox trial.

Energy Queensland notes that the existing regulatory framework is multi-faceted with an intricate mix of national and jurisdictional regulations, and that the intention of the innovative inquiry service is to assist in navigating the national regulations and refer a proponent to alternative market bodies where applicable. Moreover, the inquiry service is not be treated as a substitute for independent legal advice.

Energy Queensland has provided responses to the questions raised in the Draft Report in the following section and is available to discuss this submission or provide further detail regarding the issues raised, should the AEMC require.

2 Table of detailed comments

Consultation Paper Feedback Question	Energy Queensland Comment
Issue 1: Innovation Inquiry Service	
<p>Will the proposed design of the innovation inquiry service improve the level of guidance available to proof-of-concept trial proponents?</p>	<p>Energy Queensland agrees that this will improve the level of guidance available, provided the appropriate level of review is provided by the Australian Energy Regulator (AER) and referred to other market bodies where applicable.</p> <p>It is noted that a response from the AER is not binding and therefore should not be taken as an endorsement of the proposed trial and used to force companies to participate. For example, a peer-to-peer trading arrangement which the AER has assessed as able to progress under the current arrangements should not compel DSNPs or retailers to participate without their prior approval. Therefore, we suggest that proposed trials should be reasonably formed prior to inquiry, potentially supported by letters of agreement from core participants, and funding arrangements secured.</p> <p>While we agree that it may not be appropriate for the AER to charge a fee as this could reflect a paid service upon which one would rely, some form of deterrent should be implemented to minimise frivolous requests and an unnecessary burden being placed upon AER resources. As suggested above, well developed proposals, funding arrangements and agreement from core participants could represent minimum requirements for employing this service.</p>
Issue 2: AER Sandbox Waivers Scope of Power	
<p>a) Do you agree with the proposed extension of the powers of the AER to grant regulatory relief to innovative trials facing a regulatory barrier?</p>	<p>Energy Queensland supports the proposed extension of powers of the AER to approve waivers for innovative trials. However, we suggest that each trial that requests a waiver should have an accompanying documented exit process such that at completion of the trial it is clear how the trial will be disbanded or revert to normal operation under the existing rules. This is particularly important for any trial that installs equipment in a customer's premise. Furthermore, the waiver should ensure that consumer protections are maintained throughout the trial.</p>

	<p>We suggest that waivers should also be supported by minimum disclosure of knowledge requirements to ensure that information gained from the trial is shared across the industry, while also acknowledging and protecting intellectual property rights.</p> <p>Energy Queensland seeks clarity regarding the proposed waiver requirement of the trial being truly innovative, and how the AER will assess this requirement. Energy Queensland suggests that similar criteria to that being used to assess Demand Management Innovation Allowance submissions could be considered.</p>
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<p>b) Do you agree the waiver power should encompass the National Gas Rules? Why or why not?</p>	<p>Energy Queensland supports any opportunity that enables development of better regulation and agrees this should be adopted across the industry.</p>
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Issue 3: Regulatory Waivers Implementation

<p>a) Should there be a time-limit on the waiver application process, if so, what time-frame would be appropriate?</p>	<p>Energy Queensland suggests that the waiver application process should be time-limited and commensurate to an expedited rule change process as a maximum.</p>
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<p>b) Should the AER be able to extend regulatory waivers to allow successful trials to become fully compliant with the rules?</p>	<p>Energy Queensland agrees that the AER should be able to extend regulatory waivers where it is warranted for a trial to continue to completion, provided the scope of the trial does not change. Furthermore, if a trial is successful and is demonstrated to improve outcomes for customers and all those who participate in the NEM, it would be appropriate that the waiver is extended to allow a permanent rule change to be progressed that would make the trial arrangement fully compliant with the rules, upon passing of the new rule/s.</p>
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<p>c) Are the proposed provisions made in the regulatory waiver framework sufficient to protect customers from unintended consequences of participating or being impacted by conduct of a trial?</p>	<p>The impacts of future technologies on energy supply and hence all connected customers are impossible to predict as technology evolves. As such, there must be the opportunity for emergency intervention or provision to halt the trial by impacted stakeholders if it is resulting in poor outcomes for customers including those participating in the trial and those that are not. For example, if a peer-to-peer trading trial results in excessive energy flows resulting in an outage, there must be provision to halt the trial.</p> <p>Energy Queensland also suggests that DNSPs and retailers should be specifically informed as to the proposed waivers, locations and number of customers impacted as there may be operational impacts from the proposed trials and waivers. This will assist these stakeholders in managing customer inquiries should they feel the trial is having unintended consequences.</p>
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<p>d) Is the proposed process of stakeholder consultation sufficient to allow market participants and consumers and their representatives to fully engage with the AER as part of the waiver application process?</p>	<p>Energy Queensland suggests that jurisdictional regulators, DNSPs and retailers should be explicitly informed of waiver requests that are expected to impact on their operating environment. Notwithstanding, we note that potential issues with intellectual property rights will need to be addressed as part of this process.</p>
<p>Issue 4: Trial rule making process</p>	
<p>a) Is the proposed process necessary and appropriate for a trial rule change?</p>	<p>Energy Queensland agrees that the proposed process appears sufficient, provided that any potential poor customer outcomes, safety, reliability or security of supply impacts are adequately addressed. We also suggest that the process should have a feedback mechanism such that if at a later stage poor customer outcomes, safety, reliability or security of supply impacts can result in the trial being suspended unless the issues are addressed or terminated appropriately in an expedited manner.</p>
<p>b) Should there be an opportunity to make submissions or for other prospective participants to join the trial? Why or why not?</p>	<p>Energy Queensland suggests there should be an opportunity for other participants to join the trial. However, the acceptance or not should be at the discretion of the trial proponent. This is particularly where the original trial proponent may be expending significant effort to recruit customers to participate. It would be remiss not to provide the opportunity to develop as much knowledge as possible, but this must be weighed against other participants obtaining an unfair advantage.</p>
<p>Issue 5: National Gas Rules</p>	
<p>Do you agree that the trial rule making process should encompass the National Gas Rules? Why or why not?</p>	<p>Energy Queensland agrees that any opportunity that enables the development of better regulation should be adopted across the industry.</p>
<p>Issue 6: Rule Making Tests</p>	
<p>Do you agree that the existing rule making tests are the most appropriate test for trial rule changes? Why or why not?</p>	<p>Energy Queensland supports the existing rule making tests, with the ultimate test being that the trial should be in the long-term interests of consumers.</p>
<p>Issue 7: Lodging a Trial Rule Change Proposal</p>	
<p>Do you agree with the Commission's draft recommendation that any person should be able to submit a trial rule change proposal? Why or why not?</p>	<p>Energy Queensland agrees that any person should be able to submit a trial rule change proposal as this maintains flexibility and timeliness. Notwithstanding, we suggest that preconditions are implemented to prevent frivolous requests as noted in question 8 below.</p>

Issue 8: Rule Lodgement Preconditions

Are the existing rule change request requirements appropriate? Should additional requirements, such as demonstrating that the trial cannot otherwise be carried out, be met prior to a rule change process commencing?

Energy Queensland agrees that the trial rule change request should demonstrate why the trial cannot proceed without the rule to limit the rule change requests and to ensure that all avenues have been explored prior to this stage.

Issue 9: Applicability of the Trial Rule Change Process

Should the trial rule change process be restricted to a time limited trial, where the trial has a reasonable prospect of delivering a material benefit to consumers and where consideration of a permanent rule change would otherwise be hampered through inadequate information or experience? Why or why not?

Energy Queensland agrees that the trial rule change process should be restricted to time-limited trials. If a trial is not time-limited, it would not be a true trial, and would be seeking a permanent change to the rules and should therefore proceed with a traditional rule change request.

Where the trial rule change provides benefits to consumers, extensions could be sought such that a permanent rule change request process can be followed. This would enable the trial to continue in parallel with the development of a permanent rule with the benefit of established knowledge.

Issue 10: Trial Rule Scope

Should a trial rule be restricted to a particular participant in a manner similar to participant derogations or should it be accessible to other parties conducting similar trials? Does it depend on the circumstances? Why or why not?

To protect the intellectual property rights and limit the risk exposure to consumers of unintended consequences, it would be appropriate to restrict the trial rule to a particular participant who initiated the rule change request and provided the rationale. A determination could be made as to the additional long-term value of any other participant using the rule change for a trial as opposed to leveraging the knowledge gained.

Issue 11: Information Requirements

What additional information requirements should attach to the trial rule change process? Why?

Energy Queensland suggests that a trial rule change proposal should also include a process for trial termination in the event of unforeseen circumstances, as well as a customer dispute resolution and engagement mechanism.

Issue 12: Trial Rule Change Conditions

Should the AEMC have the ability to impose conditions on the use of the trial rule and the trial proponent? Why or why not?

To ensure that the rule is not utilised for any unintended consequences, Energy Queensland agrees that the AEMC should have the ability to impose conditions throughout the trial process in the case that there are adverse consumer consequences occurring.

Issue 13: Process Termination

Should the Commission have the ability to terminate a trial rule change process that is in progress? If so, what criteria should apply?

Energy Queensland agrees that the AEMC should have the ability to terminate a trial rule change process where there is mutual agreement, knowledge from the trial or other sources resulting in the value of the trial becoming limited, or funding issues.

Issue 14: Pathway to Rule Change

Do the current rule change process options (standard, fast-tracked and expedited) provide an appropriate pathway for successful trials to lead to full rule change? Is there another appropriate pathway for trials to lead to rule changes?

No comment.

Issue 15: Trial Rule Change Fees

Should the Commission recover some or all of its costs through a fee paid by trial rule change proponents?

Energy Queensland supports a fee to ensure that frivolous rule changes are not requested. Any trial of such complexity to require a rule change will be required to be funded and a fee for a rule change is likely to be inconsequential to the final outcome.

Issue 16: Consumer Consent Requirements

Will consumer consent requirements unduly inhibit trials that may otherwise be worthwhile? If so, what alternative arrangements would be preferred and why?

Energy Queensland agrees that any trial that directly impacts consumers over the trial period should require explicit informed consent.