

8 August 2019

Mr Owen Pascoe
Director
Australian Energy Market Commission

Dear Mr Pascoe

Evoenergy Response to Draft Report on Regulatory Sandbox Arrangements to Support Proof-of-Concept Trials

Thank you for the opportunity to provide comments and feedback on the Australian Energy Market Commission (AEMC's) Regulatory Sandbox Arrangements Draft Report. Evoenergy strongly supports the AEMC's recommendations to the Council of Australian Governments (COAG) Energy Council to improve the arrangements for proof-of concept trials through the introduction a regulatory sandbox.

Evoenergy has appreciated the opportunities to engage in this review to date, including our response to the AEMC's Consultation Paper on Regulatory Sandbox Arrangements in January 2019 and attendance at the workshop on 26 July 2019.

Evoenergy agrees that there is a need to provide some flexibility within the regulatory framework to enable the development of technology that will facilitate changes in the energy industry. Successful sandbox arrangements used in overseas regulatory frameworks are likely to be a useful guide for arrangements that can be adopted in Australia.

Evoenergy has five key comments to make on the issues raised in the Draft Report and at the workshop.

1. **Open process for engaging with regulatory bodies on the toolkit measures.**
Ensuring the appropriate regulators are engaged from the outset of a trial development will ensure an efficient process and appropriately informed negotiations between parties. Engagement with the AER for the advisory service is particularly appropriate at the early stage of a trial concept and for advice on exemptions or waiver processes. Early engagement with other regulators for their advice, such as jurisdictional safety regulators, is also likely to be beneficial to trial proponents.
2. **Toolkit sequencing.** The AEMC proposes under Recommendation 1 that the measures in the tool kit would be sequential so that parties would progress trials through the stages of information and advice, waiver process and trial rule change. Evoenergy disagrees that the measures in the toolkit would necessarily need to be sequential for several reasons.
 - a) When the toolkit has become familiar to participants and a certain type of trial is being repeated, perhaps by a different party, it may become a matter of course that a particular application is made based on previous experience of using the toolkit.
 - b) The three measures proposed may not all be needed. Following advice, the appropriate next step may be to apply for a trial rule change, rather than an exemption, depending on the circumstances. There should be an opportunity for waivers from the rules to be readily extended should the trials advance from small to larger scale trials.

- c) Providing more flexibility in the selection of the appropriate measure from the toolkit would greatly improve its usefulness to parties involved in innovation. It would also prevent the toolkit framework from becoming cumbersome by developing time-consuming processes.
3. **Consideration of stakeholder engagement.** The toolkit framework would benefit consideration of how broader stakeholders are to be involved in the trial process. Jurisdictional regulators and government agencies may seek the opportunity to be informed about trials and to be involved in decision-making around the appropriate measure from the toolkit, especially if they provide grants or have an interest in a trial's potential to meet energy policy objectives. The toolkit framework should encourage the parties and regulators to obtain customer feedback to the trial, where appropriate to do so.

Evoenergy agrees that the AER should allow for public consultation for waiver applications, but that the AER has some discretion in deciding whether to conduct public consultation.

Evoenergy also agrees that, for proposed rule changes, a consultation paper is published for public comment prior to the final rule and final determination. More frequent public consultation (such as on a draft rule change in addition to a consultation paper) is not required for trials because the nature of a trial is to limit the impacts to a narrow scale. In addition the number of parties involved in the trial and seeking the rule change are likely to be limited to a few. The long term interest of consumers remains the relevant test for trial rule changes

4. **Rule change restrictions.** Few, if any, restrictions should be placed on trial rule changes because the objective of the toolkit is to encourage innovation by relaxing rules. Adding restrictions that apply generally across trial rule changes will likely reduce possible options which may otherwise have been optimal solutions. Applicants for trial rule changes will likely be devoting some level of expenditure, asset utilisation or staff expertise to the trial and have undertaken an assessment of potential risks, costs and benefits of the trial. Restrictions may tip the balance of an assessment against proceeding with a trial. Placing regulatory restrictions on the sandbox framework is contrary to the objective of relaxing the rules for trials.

Instead a case by case approach to trial rule changes would be preferable to adopting restrictions that apply to all applications such as rule lodgement preconditions, time limits on trials, participants, information requirements, conditions, termination, fees and customer consents.

5. **Application to energy rules.** The toolkit should apply equally to the National Gas Rules as to the National Electricity Rules and National Energy Retail Rules. Innovation is needed across the energy industry and omitting gas businesses would potentially deny a significant sector of the energy industry from benefiting from more trials, which would not be in the long term interests of customers. Currently the rules may place constraints on new developments in the areas of renewable gas such as hydrogen generation, hydrogen distribution and interconnection of biogas fuel projects.

In addition to the above comments, Evoenergy supports the submission of the Energy Networks Association (ENA) and encourages the AEMC to continue to engage with the ENA in developing the sandbox framework. ENA has a pivotal role in developing and promoting the

Open Energy Networks, which is a joint collaboration between AEMO and ENA to promote transformation of the grid into a platform for new products and services—empowering customers with new information, new tools and new ways to cut costs.¹

If you wish to discuss any aspect of Evoenergy's submission, please contact Gavin Morrison, Gavin.Morrison@evoenergy.com.au or telephone (02) 6248 5808.

Yours sincerely



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¹ AEMO and Energy Networks Australia 2019, Interim Report: Required Capabilities and Recommended Actions, July 2019.