

7 August 2019

Owen Pascoe
Australian Energy Market Commission
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Dear Mr Pascoe

Re: AEMC, Regulatory sandbox arrangements to support proof-of-concept trials, Draft report, 11 July 2019

Jemena Limited, (**Jemena**) welcomes the opportunity to comment on the Australian Energy Market Commission's (**AEMC**) consultation of the regulatory sandbox arrangements to support proof-of-concept trials (**draft report**).

Jemena believes that introducing technological and business model innovations into the energy sector is critical to its development and as a platform to seeking out new ways to achieve the long term interests of customers. Jemena has had firsthand experience seeking out new opportunities to introduce innovations, however, has been constrained from doing so because of impediments in the regulatory framework. Lifting barriers, at least temporarily, will help us and other market participants to test models and seek out additional benefits for our customers.

Jemena welcomes aspects of the sandbox arrangements, particularly the advisory service and rule waiver process, however proposes that these developments should be designed to ensure customers' interests are protected and that system security is maintained.

We are, however, unsure about the need for creating temporary rules as described as the third tier in the draft report. Rule changes come in two key basic forms, those that remove a constraint or obligation, and those that add new. We observe that the removal of constraints—in the context of the sandbox draft report—are managed through the proposed waiver process, we consider this to be appropriate and measured. However, adding new constraints or obligations through temporary rules will only serve to reduce rather than enhance new innovations; this acts counter intuitively to the objectives of the sandbox. For these reasons, Jemena believes that introducing the temporary rule change making aspect outlined in the draft report is unnecessary.

We have considered the questions in the AEMC's draft report and respond to each of these in the attachment to this letter.

We thank the AEMC for the opportunity to comment on the draft report and ask you get in touch with Matthew Serpell (matthew.serpell@jemena.com.au) if you have any questions on the matters in this letter.

Kind Regards



Usman Saadat
General Manager, Regulation

AEMC Question	Jemena's response
<p data-bbox="145 342 687 371">QUESTION 1: INNOVATION INQUIRY SERVICE</p> <p data-bbox="145 416 715 517">Will the proposed design of the innovation inquiry service improve the level of guidance available to proof-of-concept trial proponents?</p>	<p data-bbox="750 416 1321 689">We believe the inquiry service will assist proponents of innovations, particularly for new entrants and smaller operators. Jemena suggests, however, that in designing the service, the AER act as a single point for communications, taking on coordination activities across other regulatory agencies such as AEMC and AEMO.</p>
<p data-bbox="145 741 687 801">QUESTION 2: AER SANDBOX WAIVERS SCOPE OF POWER</p> <p data-bbox="145 846 699 981">(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 data-bbox="145 1059 671 1160">(b) Do you agree the waiver power should encompass the National Gas Rules? Why or why not?</p>	<p data-bbox="750 846 1326 1014">We believe that customers long term interests are best served through innovations and that the AER is best placed—amongst the regulatory authorities—to facilitate relief of market restrictions.</p> <p data-bbox="750 1059 1326 1339">Jemena believes that the powers should be granted to the AER to provide relief from the National Gas Rules also. For similar reasons to Jemena's position on innovations in the electricity sector, innovations arise in the gas sector too, and that through new initiatives, the long term interests of gas customers can also be achieved.</p>

AEMC Question	Jemena's response
<p>QUESTION 3: REGULATORY WAIVERS IMPLEMENTATION</p> <p>(a) Should there be a time-limit on the waiver application process, if so, what time-frame would be appropriate?</p> <p>(b) Should the AER be able to extend regulatory waivers to allow successful trials to become fully compliant with the rules?</p> <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 the conduct of a trial?</p> <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>There is no imperative for a proponent of a waiver to implement administrative closure, and without a default administrative tidy process, the market could become unruly and more difficult to navigate. For this reason, Jemena believes that there should be a time limit on the duration of waivers to allow the market to revert to normal operation. The extent of the time-limit should be decided by the AER at the time a waiver is considered and to be informed by the proponent and broader industry consultation.</p> <p>Proponents of successful innovations, and also other market participants, should not be inhibited from continuing to provide innovations because of administrative constraints in the rule change process. However, that extension should be conditional on, (i) a commitment within a short time period to lodge a submission to the AEMC for a permanent rule change, and (ii) that the length of the extension is the latter of the time of the AEMC makes a decision or the time the rule change comes into effect.</p> <p>Jemena believes that protections should be in place—including an option to step out of a trial—to ensure customers are not harmed or to address unintended consequences that might arise from the granting of a waiver.</p> <p>Jemena believes it is imperative that public consultation is administered to allow stakeholders the opportunity to comment on matters that might affect them or the operations of the energy system. The consultation must be public.</p>
<p>QUESTION 4: TRIAL RULE MAKING PROCESS</p> <p>(a) Is the proposed process necessary and appropriate for a trial rule change?</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>Jemena does not believe creating temporary rules is of value to sandbox trials. Having said that, any rule change consideration must be public to allow all stakeholders to comment.</p>

AEMC Question	Jemena's response
<p>QUESTION 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>Jemena believes that the recommendations in the draft report should be extended to the National Gas Rules. For similar reasons to Jemena's position on innovations in the electricity sector, innovations arise in the gas sector and that through new initiatives that the long term interests of gas customers can be achieved.</p>
<p>QUESTION 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>Jemena does not believe that making changes to facilitate the creation of temporary rules is of value to sandbox trials.</p>
<p>QUESTION 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>QUESTION 8: RULE LODGEMENT PRECONDITIONS</p> <p>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?</p>	
<p>QUESTION 9: APPLICABILITY OF THE TRIAL RULE CHANGE PROCESS</p> <p>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?</p>	

AEMC Question	Jemena's response
<p>QUESTION 10: TRIAL RULE SCOPE</p> <p>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?</p>	
<p>QUESTION 11: INFORMATION REQUIREMENTS</p> <p>What additional information requirements should attach to the trial rule change process? Why?</p>	
<p>QUESTION 12: TRIAL RULE CHANGE CONDITIONS</p> <p>Should the AEMC have the ability to impose conditions on the use of the trial rule and the trial proponent? Why or why not?</p>	
<p>QUESTION 13: PROCESS TERMINATION</p> <p>Should the Commission have the ability to terminate a trial rule change process that is in progress? If so, what criteria should apply?</p>	
<p>QUESTION 14: PATHWAY TO RULE CHANGE</p> <p>Do the current rule change process options (standard, fast-track 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?</p>	<p>Jemena believes that the current rule change making process is sufficient to meet the objectives as outlined in the draft report.</p>
<p>QUESTION 15: TRIAL RULE CHANGE FEES</p> <p>Should the Commission recover some or all of its costs through a fee paid by trial rule change proponent?</p>	<p>Jemena does not believe that making changes to facilitate the creation of temporary rules is of value to sandbox trials.</p>

AEMC Question	Jemena's response
<p data-bbox="145 237 592 300">QUESTION 16: CONSUMER CONSENT REQUIREMENTS</p> <p data-bbox="145 342 679 479">Will consumer consent requirements unduly inhibit trials that may otherwise be worthwhile? If so, what alternative arrangements would be preferred and why?</p>	<p data-bbox="750 342 1321 551">Protecting customers in the energy sector is imperative. However, the gathering of consent from all trial participants may not necessarily be the best approach; it could be administratively prohibitive and be a reason for the trial not to commence in the first place.</p> <p data-bbox="750 593 1270 656">Also, there are other general protections in place, such as consumer law.</p> <p data-bbox="750 698 1318 801">It could also depend on the extent of the trial being proposed as to how much customers will be impacted.</p> <p data-bbox="750 844 1295 1122">Given the tensions between customer protection and restricting opportunity, we consider this is best addressed on a case by case basis. Jemena believes that the AER—as manager of the waiver process—should consider the need for customer consent in its consultation process when considering each waiver application.</p>