

8 August 2019

Mr Owen Pascoe
Director
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pascoe,

Regulatory sandbox arrangements to support proof-of-concept trials – draft report

Simply Energy welcomes the opportunity to provide feedback on the Australian Energy Market Commission's (AEMC) draft report on the Regulatory sandbox arrangements to support proof-of-concept trials.

Simply Energy is a leading second-tier energy retailer with over 710,000 customer accounts across New South Wales, Queensland, South Australia, Victoria and Western Australia. As one of Australia's leading energy retailers, Simply Energy is committed to actively promoting innovation and improving energy efficiency.

In line with this commitment, Simply Energy recently launched a \$23 million virtual power plant project. It is expected that this project will deliver up to 1,200 residential energy storage systems and a further two megawatts of demand response capacity across South Australia. Simply Energy is also partnering with its global parent company ENGIE in developing a renewable powered smart city in South-East Queensland.

Based on these experiences, Simply Energy is strongly of the view that the energy industry could benefit immensely from greater regulatory flexibility to test new and emerging technologies outside the pre-existing consumer protection and technical frameworks. With this in mind, Simply Energy is supportive of the AEMC's proposed toolkit, consisting of:

- access to feedback and guidance;
- regulatory waivers; and
- expedited rule changes for proof-of-concept trials.

Access to feedback and guidance

Simply Energy considers that the toolkit should operate as a coordinated suite of options that can be tailored to the specific circumstances and nature of a proponent's trial. Indeed, a regulatory waiver may be more appropriate than a rule change in circumstances where a single stakeholder is looking to undertake a small-scale trial involving a discrete segment of customers.

The innovation inquiry service will, therefore, be fundamental to ensuring that the sandbox operates in a transparent and predictable manner. The provision of appropriate guidance in the initial stages of a trial's development will help ensure that proponents are equipped with the knowledge they require to progress to proof-of-concept testing.

Regulatory waivers

In undertaking proof-of-concept testing, there may be regulatory barriers preventing proponents from progressing their initiatives. For this reason, Simply Energy supports the extension of the Australian Energy Regulator's (AER) power to providing regulatory relief. In providing a framework for the consideration of waiver applications, Simply Energy considers that the AER must make its decisions based on a common set of assessment criteria and publish the reasoning for its decision.

Administering waivers in an open and transparent manner will ensure accountability and promote wider public trust in the trial process. Indeed, fostering public trust is crucial, as participation in trials should be voluntary with participants allowed to opt-out at their discretion.

In terms of the application of waivers, regulatory relief should cover the testing of any innovative gas or electricity service that may otherwise be regulated under the energy rules. In line with the true essence of innovation, it is impossible to predict how technological advancement and wider market evolution may change service offerings in the future. With this in mind, Simply Energy is of the view that businesses should not be required to seek a waiver for each and every new product or service they wish to trial. The AER should provide broad waivers that allow proponents to trial certain classes of technologies without the need for ongoing consent on a time-limited basis.

Simply Energy considers that time-limits on waivers should be granted at the AER's discretion for a period of up to five-years. There should be an option for the AER to extend trials where a proponent is awaiting formal regulatory changes or requires more time to fully test a concept. The overarching objective of a waiver should be to provide proponents with sufficient time to gather supporting evidence to justify any necessary change in the overarching regulatory framework. Proponents should also be required to publish their trial findings publicly so that policymakers and other industry participants can learn from the outcomes of the trials.

Rule changes

As the AEMC points out, time-limited rule changes should complement the other two elements of the toolkit, and be used in circumstances where:

- the current regulations do not adequately support concepts being trialled; or
- there are potential benefits in a range of interested stakeholders being able to trial new services or technologies.

Like regulatory waivers, time-limited rule changes should be available to proponents across both gas and electricity sectors. The subsequent consultation process should provide an opportunity for the AEMC to get feedback and open the trials to wider industry participation.

The ultimate focus of a time-limited rule change should be on providing a timely and proportionate platform to trial new services and technology that if successful should lead to permanent rule changes coming into effect. In order to facilitate this end, Simply Energy suggests that information disclosure and registration requirements be imposed on any party seeking to operate a trial pursuant to a time-limited rule change.

Finally, Simply Energy does not consider it appropriate for the AEMC to charge a fee to progress a trial rule change, as this may disincentivise development of new ideas and innovation. To reduce the likelihood and cost impacts associated with speculative proposals, it will be imperative for the AEMC to establish a framework and clear conditions that proponents must satisfy before their rule change proposal is considered and progressed.

Concluding remarks

Regulation plays a fundamental role in upholding consumer interests and promoting economic efficiency. Nevertheless, for the energy sector to evolve, industry participants need to be given the flexibility to innovate and test new ideas.

As a suite of instruments, the proposed toolkit will go a long way to breaking down regulatory barriers. Proponents will be provided with a more structured platform to test and trial new ideas. Moreover, the toolkit will provide a means of testing regulatory reforms before they are rolled out across the market. The flexibility to test in a controlled environment will ultimately give industry stakeholders the opportunity to learn, refine and develop innovative concepts that could improve the overall quality of energy services provided to all Australians.

In closing, Simply Energy looks forward to continuing to work with the AEMC and welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact Anthony O'Connell, Senior Regulatory and Compliance Officer, on, telephone, (03) 8807 5134 or at Anthony.OConnell@simplyenergy.com.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'James Barton', with a stylized flourish extending to the right.

James Barton
General Manager, Regulation
Simply Energy