

7/08/2019

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

Lodged online via: www.aemc.gov.au

Dear John,

Regulatory sandbox arrangements – draft report

TransGrid welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC's) draft report in relation to regulatory sandbox arrangements for proof-of-concept trials in the national electricity market (NEM).

TransGrid is the operator and manager of the high voltage transmission network connecting electricity generators, distributors and major end users in New South Wales and the Australian Capital Territory. TransGrid's network is also interconnected to Queensland and Victoria, and is instrumental to an electricity system that allows for interstate energy trading.

We broadly support the proposed sandbox arrangements for the NEM

Australia is in the midst of an energy transformation. This is primarily driven by changing community expectations and choices, advances in renewable energy technologies, retirement of existing generation, and the adjustments required in Australia's economy to meet our international climate change commitments. These changes raise complex issues in relation to the design of the NEM, which must adapt to these changes and provide the basis for low emissions, reliable supply at the lowest cost to consumers over the long run.

In this context, we support the development of a formal regulatory sandbox framework for the NEM to facilitate the scope and scale of innovation required to support the energy transformation. The regulatory sandbox toolkit proposed by the AEMC appears to be a reasonable and flexible approach to implementing proof of concept trials to achieve this. Our comments on each element of the proposed regulatory toolbox are set out below.

Regulatory guidance

We support the creation of an inquiry service to provide regulatory guidance to innovators, playing an important role in facilitating innovation within existing arrangements and identifying where genuine regulatory barriers exist. We agree the Australian Energy Regulator (AER) is the appropriate body to act as a first point of contact and coordinator of regulatory guidance.

The recommended model of providing regulatory guidance would give too high a level of discretion to the AER to determine the timing of when feedback is provided to proponents. It is likely that any proponent of an innovative idea, product or business model would require some certainty regarding the timing of a response to their inquiry. For example, a response may be needed in a time-critical fashion as a precondition to seed funding for a small entrepreneur, or equally be required for a large regulated business in time to contribute to a process with a regulatory deadline.

We consider the AEMC should recommend that the AER commit to providing feedback within a specified timeframe, while allowing discretion to extend that timeframe under specific circumstances such as where matters are highly complex or where further information is required from the proponent. Similar arrangements should be in place to provide certainty around the timing of input from other market and non-market bodies.

We support the AEMC's recommendation that the AER report high level and de-identified information on the types and areas of innovation and regulation in relation to which guidance is sought, as well as the overall utilisation of the service. We would not support detailed reporting and knowledge sharing at this stage in the regulatory toolbox process.

Regulatory waivers

We support the introduction of a general waiver power for the AER to facilitate proof of concept trials in the NEM. The proposed scope of the power to grant time-limited waivers, as well as the proposed limitations on that power under the rules, are broadly appropriate. We specifically support the proposal that Chapters 6 and 6A are within the scope of trials, as well as the recommendation that network businesses be allowed to recover trial expenditure as regulated revenue that would otherwise not be recoverable in this way.

It is appropriate that the detailed process and conditions for granting regulatory waivers to support trials are set out in a sandbox guideline determined by the AER. The sandbox guideline should not impose limits on the scope, scale or duration of innovative ideas, products or business models that can be proposed, however each waiver should set appropriate limits on a case by case basis. The process and timing for proposing, reviewing and granting waivers, set out in the guideline, should be mindful that innovative trials require relatively short timeframes for assessing and granting waivers.

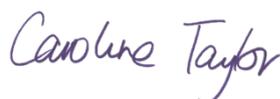
We also support the proposal that the AER be able to grant extensions to waivers to allow the proponent to become fully compliant with the rules once the trial is over. We also think this power is important to allow time for the rules to evolve to support the product or business model that was trialled, if a permanent rule change is required for ongoing compliance. We suggest including arrangements for a waiver to be extended until a proponent has submitted a rule change request (within a limited time after the trial formally ends) and the AEMC has made a final determination in relation to the proposed change.

Trial rule changes

We support the proposed introduction of trial rule changes and consider the framework outlined by the AEMC to implement this is broadly appropriate. We note that the proposed criteria includes that the rule changes be restricted to trials where a permanent rule change would otherwise be hampered by inadequate information or experience. We would also suggest that the implementation of this trial rule change process should not affect the standard, expedited or fast track rule change processes. In particular it would not be appropriate for the standard of proof for making permanent rules to change due to the existence of a trial rule change process that could be used to provide more evidence to support a permanent rule change. Equally the AER should not be reticent to use waivers to facilitate trials due to the existence of a trial rule change process.

We appreciate the opportunity to comment on the AEMC's draft report and look forward to engaging with the AEMC and other stakeholders further. If you would like to discuss our submission, please contact Dominic Adams, Regulatory Reform Manager, on 02 9284 3377.

Yours faithfully



Caroline Taylor
Head of Public Policy