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COAG Energy Council Secretariat
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COAG Energy Council – Regulatory Sandboxing Legislative Amendments

Essential Energy welcomes the opportunity to provide a submission in response to the *COAG Energy Council's Regulatory Sandboxing Legislative Amendments Consultation Package* (the amendments). Energy Networks Australia has also made a submission, which Essential Energy supports.

Essential Energy welcomes and strongly supports the introduction of more flexibility in regulatory arrangements to facilitate innovation across electricity markets. As technology advances and the expectations of energy customers change, innovation trials are going to be an increasingly important part of the energy market, as a way of both offering greater choice for energy consumers as well as representing opportunities to reduce network costs.

Support for reform package objectives

Essential Energy considers that the success of the proposed arrangements will depend on whether the regulatory sandboxing framework encompasses a broad enough scope to ensure that innovation is not inadvertently precluded due to restrictive drafting. It is important that the regulatory sandbox framework contains sufficient flexibility to allow for a broad range of trials and to allow for trials to be altered in line with practical experience.

If the legislative amendment package remains sufficiently flexible, then we are of the view that when adopted the regulatory sandbox toolkit will provide greater certainty for trial proponents as well as regulatory bodies, ensuring that trials are being conducted in the long-term interests of consumers.

Innovative trial principles

Essential Energy notes the intent to include a set of principles that the AER and the AEMC must take into account when determining whether to grant trial waivers or make trial rules respectively which would define what is considered a genuinely innovative trial project under the legislative amendment.

We support the principles as outlined in 7B(a) – (f) in order to qualify for the regulatory sandbox. These principles are important as the need for a trial to be innovative should not focus solely on new or untested energy related technologies but rather on whether conducting the trial would add to industry's collective understanding of issues. For example, a trial of stand-alone power systems may not wish to trial the specific technology (as this has already been proven in an engineering and technology sense) but rather the ways to provide this service to customers in the most cost-effective way, or in a way which materially improves the service outcomes for consumers of electricity.

To provide maximum discretion to the AER in identifying whether proposed trials can be supported, Essential Energy suggests the removal of principle 7B(g) “*whether the best solution to a regulatory barrier is not yet clear*” when assessing whether a trial waiver should be granted. In practise, proving whether the “best” solution to a regulatory barrier has been found may be a challenging proposition for both the AER and rule proponents and as such should be removed.

Innovation enquiry service

Essential Energy supports the introduction of an innovation enquiry service to be facilitated through the AER. Having a single defined point of contact to answer queries will be a constructive addition to existing regulatory arrangements.

Broadly speaking, the innovation enquiry service’s success to a large degree depends upon the timely manner in which advice can be provided to proponents. As such, we would encourage the construction of regulatory guidance timeframes being published which would act to inform perspective proponents about the length of time advice would be provided back within. Such timeframes could also act as a benchmark for AER performance. We also support the AER regularly publishing summaries of activities delivered through the advice service. For privacy reasons, such summary activity would be necessarily aggregated to a high level.

Duration of waiver

The consultation paper contemplates that once a trial waiver has been approved it would last for a duration of up to five years to provide adequate time for projects to be undertaken. Essential Energy is of the view that a waiver duration of five years, whilst appropriate for many technology types, will not be appropriate for all innovation trial technologies.

For example, in relation to stand alone power systems (SAPS), which would likely qualify under the regulatory sandboxing initiative, a five-year trial waiver is significantly shorter than the lifespan of a SAPS asset which requires the installation of household battery system, solar array, backup generator as well as ground and engineering works.

This introduces an element of stranded asset risk, as trial proponents are unlikely to invest in SAPS solutions if there is even a small possibility, they will need to be removed 5 years later at significant cost and customer disruption. Also, when SAPS are installed, network lines are often de-energised and/or subsequently de-commissioned – these are permanent decisions which would be contrary with any timebound five-year waiver permission.

As such, Essential Energy is of the view that the AER be provided with maximum discretion in applying each waiver on a case by case basis, subject to the intricacies of each project’s specific requirements and specific technology type, this may lead to waivers being applied for periods longer than five years and may need to be aligned with the life span of the specific trial technology.

Post implementation review

Essential Energy would encourage the COAG Energy Council to consider adoption of a post-implementation review to ensure the regulatory sandboxing implementation package is operating as intended and delivering efficient outcomes for all stakeholders. Such a review could consider qualitative metrics of innovation trial uptake, number of enquiries made to the AER enquiry service and importantly a detailed assessment of innovation proponent experiences.

In the context of the rapid uptake of DER and other customer technologies across the network, Essential Energy suggests that such an implementation review should occur two - three years after the national framework has been adopted, leaving sufficient time to undertake the review and propose recommendations to the framework if required.

Conclusion

Essential Energy thanks the COAG Energy Council for the consultative approach undertaken. If you have any questions in relation to this submission, please contact me on 0406 534 682 or Anders Sangkuhl, Regulatory Strategy Manager via anders.sangkuhl@essentialenergy.com.au or via phone 0409 968 326.

Yours sincerely,

A handwritten signature in black ink that reads "Chantelle Bramley". The signature is written in a cursive, flowing style.

Chantelle Bramley
General Manager, Strategy, Regulation and Corporate Affairs