



OFFICE OF THE CHIEF EXECUTIVE

Ref. A3319003/A3318888

20 February 2020

Ms Suzanne Falvi
A/Chief Executive
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Attention: Alex Oeser

Dear Suzanne

REGULATORY SANDBOXES – RULES CONSULTATION

Powerlink Queensland (Powerlink) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC's) draft rules to implement regulatory sandbox arrangements. These draft rules will be supported by complementary amendments to the National Electricity Law, National Energy Retail Law and National Gas Law. In this submission Powerlink has limited its comments to the proposed changes to the National Electricity Rules.

This submission is intended to highlight the following matters:

- that the draft rules do not appear to include an obligation on the Australian Energy Regulator (AER) to provide an innovation enquiry service;
- the timeframes for development of AER Guidelines following commencement of the Rules is not clear and may not align with timeframes for Powerlink's 2023-27 Revenue Proposal. To facilitate such an outcome, we ask that the AEMC consider whether transitional provisions are required in the Rules for this purpose, including the ability for the AER to work with the relevant business and customers to develop and apply Interim Guidelines; and
- that the sandbox framework should consider broader potential initiatives. In this regard, Powerlink is keen to adopt a form of regulatory sandbox for application in its 2023-27 regulatory period. We provide an example of such an arrangement.

Sandbox Tools

Powerlink considers that the draft rules largely give effect to the recommendations in the AEMC's Final Report on Regulatory Sandbox Arrangements, released in September 2019. In particular, the regulatory sandbox toolkit includes three tools to be used sequentially:

33 Harold Street, Virginia
PO Box 1193, Virginia, Queensland 4014, Australia
Telephone: (07) 3860 2111 Facsimile: (07) 3860 2100
Website: www.powerlink.com.au

- An **innovation enquiry service**, implemented by the Australian Energy Regulator (AER) under the current law and rules;
- A **regulatory waiver power** for the AER to provide temporary exemptions from regulatory obligations or registration requirements; and
- A **trial rule change** process for the AEMC to temporarily change existing rules or temporarily introduce new rules.

While the AEMC has identified that the innovation enquiry service can be operated within the existing regulatory framework, Powerlink notes that it appears that the AER is not currently obliged to provide this service. Without a clearly expressed obligation to provide this service there is a risk that the first step in the regulatory sandbox process chain may not be effective.

Timeframes

It is not clear from the draft Rule information whether the timeframes for implementation and commencement of the Rules as well as development of relevant AER Guidelines will align with Powerlink's next regulatory determination process.

Powerlink is currently preparing its Revenue Proposal for the 2023-27 regulatory period and is required to submit its Revenue Proposal to the AER by January 2021. Given the timing for lodgement of Powerlink's 2023-27 Revenue Proposal, we ask the AEMC to consider whether transitional provisions may be required to allow Powerlink to access the new regulatory sandbox framework as part of its next revenue determination process. This could include the development and use of Interim AER Guidelines.

Scope of Regulatory Sandbox Arrangements

Powerlink understands the original motivation for proposing regulatory sandbox arrangements is that rapid technology changes in the energy landscape have created the opportunity for deploying those technologies at scale and for new business models that can add value for energy consumers. The regulatory framework is relatively slow moving and typically requires evidence of overall benefits to consumers before rule changes can be progressed to facilitate these changes. There is currently no mechanism to trial new ideas and to test their viability and the value they deliver, which can help inform any proposals to make permanent changes to the regulatory framework.

While this need provides a clear focus for justifying the development of regulatory sandbox arrangements, Powerlink considers the sandbox framework should consider the broader potential of these initiatives.

Interaction with Powerlink's Revenue Determination Process

At present, all network replacement capital expenditure is included in the ex-ante forecast submitted to the AER as part of a TNSP's Revenue Proposal. Powerlink can see merit in some major reinvestment expenditure, that is not forecast until later in the next regulatory period, being included as contingent expenditure, and not part of the ex-ante forecast.

To test this idea it may be necessary for some specific aspects of the contingent project framework in the Rules to be temporarily waived or changed – the specification of trigger events for an asset condition driven network reinvestment may not fit within the

current criteria set out in the Rules. Powerlink considers that such a trial of new or changed business processes under the Rules can provide benefits to consumers at this time of significant change in the energy landscape. However, Powerlink is concerned that the eligibility requirements in the draft Rules that a trial project be genuinely innovative may unnecessarily constrain otherwise valuable trials, such as Powerlink's idea for contingent reinvestment projects.

Powerlink has been discussing the potential application of regulatory sandbox arrangements with customer representatives on its Customer Panel, Revenue Proposal Reference Group, with the AER's Consumer Challenge Panel 23 and AER staff involved in Powerlink's Revenue Determination process. Customer representatives are supportive of Powerlink pursuing arrangements such as contingent reinvestment projects.

If you have any questions in relation to this submission, please contact Jennifer Harris.

Yours sincerely,



Kevin Kehl
A/CHIEF EXECUTIVE

Enquiries: Jennifer Harris, Telephone: (07) 3860-2667, Email: jharris@powerlink.com.au