



TELSTRA CORPORATION LIMITED

Submission to Essential Services Commission Victoria's consultation on Trial Project Guideline draft decision

16 May 2022



We welcome the opportunity to comment on the Essential Services Commission Victoria's (ESC) Trial Project Guideline – draft for consultation (trial guideline) released on 19 April 2022.

Regulatory sandboxing and trial waivers will offer businesses an opportunity to test a range of new product and services which may offer long term benefits for both consumers and the market. We welcome the ESC's proposal to adopt and utilise much of the work undertaken by the Australian Energy Regulator (AER) and Australian Energy Market Commission (AEMC) to-date.

The following response has been prepared based on our recent market entry experience to become an authorised and licenced energy retailer in both the National Energy Consumer Framework (NECF) and Victoria. Our experience under these processes have highlighted the importance of harmonisation in jurisdictional frameworks as this allows for efficiency and consistency across markets. To this end, we recommend that the AER and the ESC have aligned processes and timeframes when it comes to the Innovation Enquiry Service (IES).

Information required in an application

We support the ESC's proposed inclusion of consumer protection conditions at 7.2 of the trial guideline. These consumer protection conditions align with the proposed approach from the AER and ensure customers will not be worse-off for being a participant in a new, innovative trial. In particular, customer access to clear information about their rights and how to seek assistance is integral to providing explicit informed consent to the project. Part of this is ensuring customers have clear and consistent pathways to support and dispute resolution.

We recommend section 3.2 of the guideline relating to required information be extended. It would be useful for consumers to be provided clear information of both internal and external (if available) dispute resolution processes. For applicants who are not members of an external dispute resolution body (such as an energy and water ombudsman), there should be further instruction on what is expected in relation to dispute resolution requirements for trial project participants. We recognise this may form part of the individual conditions of a trial waiver but having this information clear in an applicant's application for public consultation will assist in the engagement process. We understand that the ESC and stakeholders valued this transparency for our own draft policies through the licencing process.

There may also be opportunity to leverage the approach used by Treasury under the Consumer Data Right (CDR). The CDR seeks to leverage an organisation's existing dispute resolution processes, including membership of external dispute resolution bodies when onboarding additional sectors and accredited data recipients. Under this model, the AER and ESC would be able to assess whether the existing dispute resolution processes of the applicant are fit-for-purpose in the energy context.

Confidential processes

We recommend the ESC consider a unified approach to the management of confidential information. While the AER and ESC are largely aligned, the proposed AER approach is to seek written consent from an applicant prior to sharing any confidential information, while the proposed ESC approach is to obtain a blanket consent from the applicant for that information to be shared at the time of application.



Our view is that the AER approach is consistent with how confidential information is currently handled by organisations. This allows businesses the opportunity to consider whether they wish to continue with their application should the AER or ESC seek to disclose confidential information to broader parties. We consider that the AER approach allows for a dialogue between the applicant and regulator, as well as transparency in steps throughout the application process, which overall improves relationships and outcomes.

We therefore recommend that the ESC align to the AER's approach of seeking written consent to share confidential information at the time it is considered required.

Timeframes

We encourage a consistent approach to timeframes in the application and extension processes. We note that the AER has included a six-month timeframe in their draft but are aiming for a three-month approval period. The six-month period is flagged as being a precaution as they build up experience in the process. Conversely, the ESC has stated that a six-month period will be necessary for considering applications.

We encourage a greater alignment on the base expected timeframes to better support applicants seeking to undertake cross-jurisdictional trials. We recognise that under a *stop the clock* approach for additional information there may be some inconsistencies between the final timeframe, but overall expect it to be more aligned than if there is a three-month difference between regulators.

This also applies to the proposed timeframes for extensions of trial waivers. As acknowledged by the ESC, the proposed approach is different to that of the AER. As above, cross-jurisdictional trials will benefit from having consistency in timeframes and expectations of applicants. It would also allow for aligned trial releases (i.e. both Victorian and NECF customers could benefit from a trial at the same time).