



Victoria Government Gazette

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Electricity Industry Act 2000 TRIAL WAIVER ORDER IN COUNCIL Order in Council

The Lieutenant-Governor, as the Governor's deputy, with the advice of the Executive Council under section 53 of the **Electricity Industry Act 2000 (Vic)** (the Act).

PART 1 – PRELIMINARY

1. Purpose

The purpose of this Order is to:

- a) specify matters the Commission must have regard to when determining whether to grant a trial waiver, extend the period of a trial waiver, or vary a trial waiver or a condition to which a trial waiver is subject,;
- b) specify additional innovative trial principles for the purposes of section 52(f) of the Act; and
- c) specify matters that the Commission must provide for in the trial project guidelines.

2. Commencement

This Order comes into operation on the date it is published in the Government Gazette.

3. Definitions

In this Order, unless the context otherwise requires, the following words have the following definitions:

AEMO has the same meaning as in section 3 of the Act.

Commission has the same meaning as in section 3 of the Act.

customer for the purposes of this Order means a person who uses electricity predominantly for domestic or personal use, or whose total consumption of electricity does not, or is not likely to, exceed more than 40 megawatt hours in any given year.

explicit informed consent has the meaning set out in clause 7 of the Energy Retail Code of Practice, except those references in that clause to a 'retailer' are to be read as references to the trial waiver holder.

innovative trial principles has the same meaning as in section 52 of the Act.

proponent has the same meaning as in section 54(1) of the Act.

retailer has the same meaning as in section 3 of the Act.

trial project has the same meaning as in section 51 of the Act.

trial project guidelines has the same meaning as in section 51 of the Act.

trial waiver has the same meaning as in section 54 of the Act.

PART 2 – GRANT, EXTENSION, OR VARIATION OF A TRIAL WAIVER

4. Matters the Commission must have regard to in relation to the grant, extension, or variation of a trial waiver

For the purposes of section 53(1)(a)(i) to (iii) of the Act the following matters are specified as matters the Commission must have regard to:

- a) where a trial project directly involves the supply or sale of electricity or gas to a customer, whether the proponent has obtained the explicit informed consent of the customer to participate in the trial project;

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- b) where a trial project directly involves the supply or sale of electricity to a customer, the proponent's processes in relation to disconnection;
- c) where a trial project involves the supply or sale of electricity to a customer, whether the proponent provides access to dispute resolution;
- d) whether the proponent has a process allowing for a customer to opt out from participating in the trial project;
- e) how the proponent will address the needs and requirements of any customers experiencing vulnerability who are or may participate in a trial project;
- f) the proponent's operational, technical and financial ability to carry out the trial project;
- g) whether the carrying out and monitoring of the trial project is likely to contribute to the development of regulatory and industry experience;
- h) whether the trial project may have an adverse effect on the safety, reliability or security of supply of electricity and the measures that the proponent will take to avoid or mitigate such risks;
- i) whether the extent and nature of the confidential information claimed by the proponent may impair:
 - i. the Commission's ability to provide appropriate public transparency in relation to the conduct and outcomes of trial projects; or
 - ii. the appropriate development of regulatory and industry experience arising from the trial project;
- j) the potential customer impacts associated with the trial project;
- k) the proponent's exit strategy;
- l) how the project will be monitored, reported on and evaluated;
- m) whether the trial project is unable to be conducted without a trial waiver; and
- n) whether the trial waiver will be appropriately limited in time, scope and scale.

PART 3 – ADDITIONAL INNOVATIVE TRIAL PRINCIPLES

In addition to the innovative trial principles specified in section 52 of the Act, the following principles must be had regard to in determining whether a trial project is genuinely innovative in connection with granting a trial waiver, continues to be genuinely innovative in connection with extending the period for which the trial waiver applying to the trial project has effect, or a trial project is genuinely innovative in connection with granting a variation of trial waiver, or conditions of trial waiver:

- a) whether the trial project has moved beyond research and development stages but is not yet established, or of sufficient maturity, size or otherwise commercially ready, to attract investment;
- b) whether the trial project may negatively impact AEMO's operation of the national electricity system and national electricity market and, if there are impacts, how those impacts can be mitigated;
- c) whether the trial project is able to be trialled and evaluated;
- d) whether there is potential for the trial project to be successfully expanded; and
- e) whether the trial project will provide for public sharing of knowledge, information and data resulting from the trial project.

PART 4 – TRIAL PROJECT GUIDELINES

In accordance with section 53(1)(d) of the Act the following are specified as matters the Commission must provide for in trial project guidelines:

- a) matters the Commission may examine when considering a proponent's opt out proposal and a proponent's request to restrict the circumstances in which participants may be able to opt out;

- b) the approach the Commission will take in determining the conditions of trial waivers, including customer protection conditions;
- c) the approach the Commission will take in determining monitoring and reporting obligations.

Dated: 7 June 2022

Responsible Minister

HON. LILY D'AMBROSIO MP

Minister for Energy, Environment and Climate Change

ALEXANDRA DEBELJAKOVIC
Clerk of the Executive Council

Gas Industry Act 2001
TRIAL WAIVER ORDER IN COUNCIL
 Order in Council

The Lieutenant-Governor, as the Governor's deputy, with the advice of the Executive Council under section 54 of the **Gas Industry Act 2001 (Vic)** (the Act).

PART 1 – PRELIMINARY

1. Purpose

The purpose of this Order is to:

- a) specify matters the Commission must have regard to when determining whether to grant a trial waiver, extend the period of a trial waiver, or vary a trial waiver or a condition to which a trial waiver is subject;
- b) specify additional innovative trial principles for the purposes of section 53(f) of the Act; and
- c) specify matters that the Commission must provide for in the trial project guidelines.

2. Commencement

This Order comes into operation on the date it is published in the Government Gazette.

3. Definitions

In this Order, unless the context otherwise requires, the following words have the following definitions:

AEMO has the same meaning as in section 3 of the Act.

Commission has the same meaning as in section 3 of the Act.

customer for the purposes of this Order means a person to whom a gas company transmits, distributes or supplies gas or provides goods or services predominantly for domestic or personal use, or whose total consumption of gas does not, or is not likely to, exceed more than 1000 gigajoules in any given year.

distribution pipeline has the same meaning as in section 3 of the Act.

explicit informed consent has the meaning set out in clause 7 of the Energy Retail Code of Practice, except those references in that clause to a 'retailer' are to be read as references to the trial waiver holder.

innovative trial principles has the same meaning as in section 53 of the Act.

proponent has the same meaning as in section 55(1) of the Act.

gas retailer has the same meaning as in section 3 of the Act.

trial project has the same meaning as in section 52 of the Act.

trial project guidelines has the same meaning as in section 52 of the Act.

trial waiver has the same meaning as in section 55 of the Act.

PART 2 – GRANT, EXTENSION, OR VARIATION OF A TRIAL WAIVER

4. Matters the Commission must have regard to in relation to the grant, extension, or variation of a trial waiver

For the purposes of section 54(1)(a)(i) to (iii) of the Act the following matters are specified as matters the Commission must have regard to:

- a) where a trial project directly involves the provision of services by means of a distribution pipeline, or the sale of gas to a customer, whether the proponent has obtained the explicit informed consent of the customer to participate in the trial project;
- b) where a trial project directly involves the supply or sale of gas to a customer, the proponent's processes in relation to disconnection;

- c) where a trial project involves the supply or sale of gas to a customer, whether the proponent provides access to dispute resolution;
- d) whether the proponent has a process allowing for a customer to opt out from participating in the trial project;
- e) how the proponent will address the needs and requirements of any customers experiencing vulnerability who are or may participate in a trial project;
- f) the proponent's operational, technical and financial ability to carry out the trial project;
- g) whether the carrying out and monitoring of the trial project is likely to contribute to the development of regulatory and industry experience;
- h) whether the trial project may have an adverse effect on the safety, reliability or security of supply of gas and the measures that the proponent will take to avoid or mitigate such risks;
- i) whether the extent and nature of the confidential information claimed by the proponent may impair:
 - i. the Commission's ability to provide appropriate public transparency in relation to the conduct and outcomes of trial projects; or
 - ii. the appropriate development of regulatory and industry experience arising from the trial project;
- j) the potential customer impacts associated with the trial project;
- k) the proponent's exit strategy;
- l) how the project will be monitored, reported on and evaluated;
- m) whether the trial project is unable to be conducted without a trial waiver; and
- n) whether the trial waiver will be appropriately limited in time, scope and scale.

PART 3 – ADDITIONAL INNOVATIVE TRIAL PRINCIPLES

In addition to the innovative trial principles specified in section 53 of the Act, the following principles must be had regard to in determining whether a trial project is genuinely innovative in connection with granting a trial waiver, continues to be genuinely innovative in connection with extending the period for which the trial waiver applying to the trial project has effect, or a trial project is genuinely innovative in connection with granting a variation of trial waiver, or conditions of trial waiver:

- a) whether the trial project has moved beyond research and development stages but is not yet established, or of sufficient maturity, size or otherwise commercially ready, to attract investment;
- b) whether the trial project may negatively impact AEMO's operation of systems relating to natural gas (including AEMO's performance of its declared system functions), and markets and auctions for natural gas and, if there are impacts, how those impacts can be mitigated;
- c) whether the trial project is able to be trialled and evaluated;
- d) whether there is potential for the trial project to be successfully expanded; and
- e) whether the trial project will provide for public sharing of knowledge, information and data resulting from the trial project.

PART 4 – TRIAL PROJECT GUIDELINES

In accordance with section 54(1)(d) of the Act the following are specified as matters the Commission must provide for in trial project guidelines:

- a) matters the Commission may examine when considering a proponent's opt out proposal and a proponent's request to restrict the circumstances in which participants may be able to opt out;

- b) the approach the Commission will take in determining the conditions of trial waivers, including customer protection conditions;
- c) the approach the Commission will take in determining monitoring and reporting obligations.

Dated: 7 June 2022

Responsible Minister

HON. LILY D'AMBROSIO MP

Minister for Energy, Environment and Climate Change

ALEXANDRA DEBELJAKOVIC

Clerk of the Executive Council

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