

10 May 2012

Mr Warwick Anderson  
General Manager – Network Regulation Branch  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601

Sent via: [NSWACTelectricity@aer.gov.au](mailto:NSWACTelectricity@aer.gov.au)

Dear Mr Anderson

**Submission on the Discussion Paper: Framework and Approach for the Review of NSW Public Lighting Services for 2014-2019**

Council acknowledges the opportunity to comment on the AER's discussion paper on the matters relevant to the framework and approach for review of the NSW public lighting services for 2014-2019.

Council adopted its Public Lighting Strategy in 2003 and joined the Southern Sydney Regional Organisation of Council (SSROC) sponsored 34-Council Street Lighting Improvement Program (SLIP), to collectively achieve the long outstanding reforms in public lighting service delivery and pricing in New South Wales.

As a founding member of the SSROC's Street Lighting Improvement Program (SLIP), Council would like to express its full support for the issues raised in the SSROC's comprehensive submission on this occasion.

The attached submission from Council therefore briefly reiterates the key issues raised in the SSROC's submission as well as includes Council's more specific concerns on some of these.

The significant concerns and the key issues included in the submission are:

- *Grossly excessive inherited residual asset valuation undermined the transitional determination by the AER for the 2009-2014 regulatory period.*

As the AER is no more bound by the transitional constraints, Council would request for a full scrutiny of these valuations to enable an objective review for 2014-2019.

- *Greater transparency about Ausgrid's efficient cost of service provision and price modelling assumptions.*

Withholding of this information by Ausgrid during the 2009/10 determination process disadvantaged Council and the SSROC and prevented the making of any effective submission. A repetition of this will severely undermine Council's confidence in the regulatory review process.

- *Adverse implications from the 2010 determination: pricing complexity; fragmented and anomalous billing; and questionable asset age assumptions. [Q.1A in Discussion Paper]*

The unintended consequences of the 2010 determination have resulted in an unwelcome experience for Councils in several areas and these have been outlined in some detail in the attached submission by Council as well as in the SSROC's submission. Council recommends that these concerns are addressed by the AER as part of the 2014-19 determination process.

- *Should public lighting in NSW continue to be regulated as an alternative control service as a negotiated service or an unregulated service?* [Q.1B in Discussion Paper]

Under the current arrangement, there is hardly any potential for competition to emerge. In reality, neither of the two alternative options of a *negotiated service* or an *unregulated service*, as suggested by the AER, is currently exercisable, unless significant changes are made to the current NSW governance framework for public lighting and an extensive contestability framework is developed.

Council recommends that through its determination process the AER paves the way to make street lighting service provision either a negotiated service or a reasonably contestable one as a minimum, similar to the South Australian model.

- *Has the current approach resulted in greater (or less) competition in the construction or provision of public lighting services?* [Q1C in Discussion Paper]

The current regulatory approach has not introduced or improved the prospect of competition in NSW public lighting. Moreover, Ausgrid's arbitrary and excessive residual asset values pose a significant financial barrier to exit current arrangements by a council.

- *The need for a simplified pricing structure* [Q2,3 & 4 in Discussion Paper]

For practical reasons and to avoid the potential for further complexity, Council is not supportive of introducing a further category of capital charge for assets installed during the 2014-2019 period. However, Council is supportive of Ausgrid's proposal to model various pricing scenarios, to explore ways to simplify the current pricing structure, which it would like to comment on in due course when details are available.

- *Interim tariffs to facilitate adoption of emerging technologies such as LED street lights.*

The current lengthy determination process every five years does not appear well suited to dealing with next generation of fast emerging lighting technologies. Council, therefore, recommends in favour of interim tariffs for new technologies to enable initial adoption to take place, without the need for going through a full AER pricing approval process.

Council expects that the issues raised in its submission will receive the due consideration they merit during the AER's review and determination process.

Should you require further clarification or would like to discuss, please contact me on 02 9707 9524 or email: [matthew.stewart@bankstown.nsw.gov.au](mailto:matthew.stewart@bankstown.nsw.gov.au)

Yours sincerely



Matthew Stewart  
**General Manager**

**Attached:** Submission



**Bankstown City Council's Submission to the Australian Energy Regulator on its Discussion Paper – *Matters relevant to the framework and approach NSW DNSPs 2014-19 – public lighting services.***



## **Introduction**

Council adopted its Public Lighting Strategy in 2003 and as a founding member of the Southern Sydney Regional Organisation of Council (SSROC) sponsored 34-Council Street Lighting Improvement Program (SLIP), has been working since then to collectively achieve the long outstanding reforms in public lighting service delivery and pricing in New South Wales.

Council thanks the AER for the early consultation at the outset of the review and determination process for the 2014-2019 regulatory period and would like to comment as follows on the AER's discussion paper:

### **Ausgrid's high residual asset valuation still remains a major concern**

The grossly excessive revaluation of the existing Ausgrid street lighting assets having little relationship to historic real costs but previously endorsed by the IPART was the key driver of the AER granting 49% average increase in capital and maintenance charges from 1 July 2010 for Councils in Ausgrid's territory.

Following the Australian Competition Tribunal's decision, the AER was unable to consider the fair value of historic Ausgrid street lighting assets, as under the transitional arrangements it was compelled to use the excessive revaluation of assets inherited from the previous IPART determination. This had fundamentally undermined the pricing review undertaken by the AER.

Although the AER is no more bound by this constraint inherent in the transitional arrangements, the issue still remains a key concern for councils.

Council therefore calls for a transparent and thorough scrutiny of these grossly excessive unrealistic asset valuations and establishing a fair valuation for Ausgrid's historic street lighting assets through the 2014-2019 review and determination process, to address this serious concern.

### **Efficient cost of service provision and transparency in releasing full pricing information by Ausgrid**

A major concern of councils in the 2009-2014 pricing determination was Ausgrid's refusal to provide councils with its street lighting pricing assumptions and the overall pricing models, making Council and SSROC unable to prepare any effective submission challenging Ausgrid's claims.

After nearly 20 months from beginning of the review by the AER and towards the end of the process, although Ausgrid released some information – it however redacted most of the vital information, making the information provided unusable by councils.

Council would therefore call upon the AER to ensure that all information relating to price modelling and essential for determining efficient cost of provision of street



lighting service, by benchmarking this with inter-state data, will be released in full right at the outset of the forthcoming pricing review.

Unless this is ensured, there cannot be any meaningful participation by councils in the pricing review and determination process.

### **Discussion Paper Question 1:**

#### **A. What has been the experience for customers under the current regulatory approach to public lighting? For example, do the current arrangements result in pricing that is too complex or lacking in transparency?**

Besides an average 49% price increase shock, the adverse impacts from the 2010 determination have resulted in an unfavourable experience for Council. These include pricing complexity; fragmented and anomalous billing completely lacking in transparency; and the legacy of questionable asset age assumptions have led to nonsensical outcomes when councils seek to negotiate exit charges from existing assets. This has made the whole pricing regime introduced as confusing and untenable.

Since the 2010 AER determination, Councils have received monthly bills where network charges for the same month have been spread across three bills. There has been unclear terminology and labelling on bills and capital charges have been split across two bills, all these without any clarification about the justification or reasons for these.

Often, the anomalous bills do not provide information reasonably necessary for a council to verify the accuracy of an amount charged on the bill, as required under the NSW Public Lighting Code.

Ausgrid's assumption about the average age of each asset class in the LGA does not appear to have any relationship to real asset age. For example, in the extreme, similarly aged adjacent assets on either side of a council boundary can have capex charges differing by seven fold.

Ausgrid's assumption about the average age of each asset class in each LGA does not appear to have any relationship to the real age of the asset. In some extreme cases, similarly aged adjacent assets on either side of a council boundary can have capex charges differing by second fold.

Again by way of example, the lack of relationship of the age assumed to the real assets becomes evident to councils when they want to replace some park lighting and/or tried to negotiate the replacement of particular assets.

Lights in parks and reserves has remained a long unresolved issue for Councils in Ausgrid's territory, as Bankstown Council experienced significant difficulties in getting outages fixed and lights replaced or negotiate a taking over of these lights by Council by paying reasonable exit charges.



Ausgrid in the past expressed its intention to withdraw from the provision of lighting service in parks and reserves but never came up with a formally announced policy in this area, although promised to do so a number of times.

**B. Should public lighting in NSW continue to be regulated by the AER as an alternative control service or is there merit in classifying the service as a negotiated service or an unregulated service?**

Currently, there is no potential for any competition to emerge in the provision of street lighting in NSW.

Although the AER has sought comments on the comparative merit of the three apparent options, in reality neither of the two alternative options of a *negotiated service* or an *unregulated service*, as suggested by the AER, is currently exercisable, unless significant changes are made to the current NSW governance framework for public lighting and an extensive contestability framework is developed.

It may be relevant to note that the review of the NSW Public Lighting Code has remained stalled for more than five years now, which suggests that such fundamental changes to the public lighting governance framework in NSW are not under consideration.

Council recommends that through its determination process the AER paves the way to make street lighting service provision either a negotiated service or a reasonably contestable one as a minimum, similar to the South Australian model.

**C. Has the current approach resulted in greater (or less) competition in the construction or provision of public lighting services?**

The current regulatory approach has in way improved the prospects for introducing competition in the provision of public lighting in NSW. Even the potential for any competition which is currently insignificant

**Discussion Paper Question 2:**

**Comments regarding the use of Option 1: Extension of the current arrangements. In particular: A. What are the main advantages and disadvantages of this approach?**

As stated in the discussion paper, this approach would see the continuation of the current regulatory arrangements with the introduction of a third capital charge for assets installed during the 2014-19 regulatory period.

Because of its potential to further increase the pricing and billing complexities, Council is not generally supportive of the introduction of a third type of capital charge for assets installed during the 2014-2019 period. Council is of the view that there may be other fair and equitable ways to simplify pricing, without increasing the complexity involved in Option 1. It is worth further investigating this approach to find a solution without significant price shocks for councils.

Council agrees with the views expressed in the SSROC's submission that a simplified and fair pricing may be possible because of the reasons detailed in that submission.

### **Discussion Paper Question 3:**

The AER seeks comments on Endeavour Energy's submission. In particular:

- A. What are key advantages and disadvantages of the approach proposed by Endeavour Energy?
- B. Would the averaging of capital costs used to calculate the annuity for assets constructed in the 10 year period 2009 to 2019 disadvantage third party providers of these assets?

Generally, Council is of the view that the introduction of a third type of capital charge has the potential to further increase complexity. However, without assessing the potential impact of a 10 year averaging of capital costs, Council is not in a position to comment on the approach proposed by Endeavour Energy. Council therefore would suggest that the AER undertakes modelling to investigate its pros and cons and make the findings available for comment.

### **Discussion Paper Question 4:**

The AER seeks comments on Ausgrid's submission. In particular:

- A. Would a simplified pricing structure such this come at the expense of cost reflective prices?

In principle, Council is amenable to a simplified pricing approach, if the cost reflectivity and price shocks are modelled first and the implications are available for assessment.

- B. Would this approach permit the entry of third party providers of public lighting services?

Currently, there is no reason to believe that moves to simplify pricing would facilitate the entry of third party providers or induce contestability.

### **Interim tariffs to facilitate adoption of emerging technologies**

Public lighting has entered a period of rapid change with technologies such as LEDs, plasma and adaptive advanced lighting controls emerging and maturing fast, fundamentally changing the mix between capital, energy and maintenance costs. The current regulatory approach of long drawn price determination process every five years does not appear well suited to dealing with next generation of emerging lighting technologies.

Therefore, Council recommends that provision be made for interim tariffs for new technologies to facilitate trial and initial adoption, without the need to go through a lengthy AER pricing approval process.