



Submission to Australian Energy Regulator

Response to Draft Determination

Public Lighting Contestability

23rd July 2010



Table of Contents

Summary	3
Classification of Public Lighting Services	4
All Public Lighting Services are contestable	4
Ownership of Assets	4
History	4
Prior 1 st May 1993	4
Post 1 st May 1993	4
Post 1 st January 2001	4
Divesting	5
Reclassifying Public Lighting	7
Proposed New Public Lighting Assets	8
Distribution Service Installation Rules	8
Clause 7.8.5.1 – Equipment Installed on a Distributor’s Pole	8
Risk and Administration Fee	9
Public Lighting Code	9
Retail Energy	10
New Lighting Equipment	10
Conclusion	11



Mr Chris Pattas
General Manager
Network Regulation South
Australian Energy Regulator
GPO Box 520
Melbourne Victoria 3001

SUBJECT: DRAFT DISTRIBUTION DETERMINATION 2011 – 2015 CHAPTER 19 – Public Lighting

Dear Mr Pattas,

Citelum Australia, subsidiary of Dalkia, joint venture between EDF and Veolia Environment manage 2.3 million street lighting points on 5 continents and in 17 countries.

Citelum Australia welcomes the opportunity to make a submission in relation to the Draft Determination for Victorian Electricity distribution network service providers. Specifically our submission relates to Chapter 19 of the Draft Determination in regards to Public Lighting.

Could the Australian Energy Regulator avail itself of the Public Lighting Information Sheet No 1 published by the Essential Services Commission to ensure the understanding of this proposal and subsequent regulatory approach be considered to ensure that confusion in the marketplace is resolved?

We would be please to answer any questions. Please do not hesitate to contact me personally on Mobile: 0407 639 110 or email apcarey@citelum.com.au.

Yours sincerely,

A handwritten signature in black ink that reads "Adam Carey".

Adam Carey
Managing Director Australia/NZ

Summary

Citelum Australia welcomes the draft understanding by the Australian Energy Regulator in the Draft Determination that new Public Lighting and the ensuing OMR's services of public lighting are contestable¹.

Citelum understands the economic regulation of public lighting within Victoria is delivered by the Australian Energy Regulator however the policy rules and guidelines are mandated and set down by the Essential Services Commission specifically under the Public Lighting Code of 2005. To this effect can we suggest that the Australian Energy Regulator re-assess public lighting under those considerations and policies made by the Essential Services Commission?

To further clarify this understanding can we propose a further simplification of the public lighting framework? The proposal will also make it simpler with respect to previous determinations made by the Australian Energy Regulator. This simplification will enable more competitive services delivered to the customer and also considers existing policies made by the Essential Services Commission Victoria.

The Essential Services Commission Draft Decision² indicated back in 2004, that many customers including both State and Local Government Authorities were misinformed in relation to whether public lighting OMR services were actually contestable.

In 2010 there is still misinformation relating to the contestability of public lighting. In a letter to Citelum³ the Department of Planning and Community Development the State Government Department responsible for of Local Government relates the matter of public lighting contestability as complex, giving rise to impediments. Citelum would argue that the matter is simple and can be resolved to ensure all parties are considered.

The Essential Services Commission has always been consistent in its policy framework and position detailing in information sheets, draft reports and final determinations that since 2001 public lighting services have always been contestable.

The Local Government Regulations 2004 (General) restricts councils as a public lighting customer from entering in contracts for goods and services for goods and services in excess of \$100,000 or such higher amount as is fixed from time to time under section 186(1) of the Act) or more. (Now \$150,000 as an order in council)⁴. It is our understanding that since 2001, not one council has publicly sought tenders for the provision of OMR services.

¹ Draft Determination Chapter 19, Australian Energy Regulator

² Essential Services Commission Draft Decision Page 75 and 76 2004 Review of the Public Lighting Excluded Service Charges – Draft

³ Letter to Citelum ref CMIN020810 16-07-2010 by John Watson Executive Director Local Government

⁴ Circular Letter 17/2008 sent to Local Government CEO;s by Acting Executive Director John Watson 6/08/2008

Classification of Public Lighting Services

All Public Lighting Services are contestable

The Essential Services Commission has indicated that since 2001 public lighting customers can choose contractors to fulfil all or part of the OMR services.

“The rationale for disaggregating the public lighting OMR charges from DUoS charges was to facilitate competition for these services. From 1 January 2001, public lighting customers have been able to source OMR services from competitive service providers. Where public lighting customers continue to obtain these services from the distributors, the charges that may be levied by distributors have been regulated as an excluded service to protect customers that are not in a position to obtain these services on a competitive basis.”

Ownership of Assets

History

Prior 1st May 1993

Prior to 1 May 1993, the former State Electricity Commission (SEC) charged a tariff that included the full costs associated with public lighting.

Post 1st May 1993

Customers have been funding the capital cost of the new public lighting assets since 1993⁶ as a result of changes made to SEC policy. The SEC continued to fund replacement assets, but new assets were funded by public lighting customers.

Post 1st January 2001

Distribution Energy Charges and Transmission Energy Charges are natural monopolies. To facilitate competition in the public lighting, the Essential Services Commission separated the Operation Maintenance and Replacement (OMR) from the Distribution Use of System Charge (DUoS) charge therefore since 2001 and therefore the regulation approaching the two different charges is therefore different.

⁵ Public Lighting Information Sheet No 1 – 13 August 2004

⁶ Public Lighting Information Sheet No 1 13th August 2004 Essential Services Commission

Divesting

Under Clause 3 of the Public Lighting Code, it indicates provision for transfer of ownership for public lighting assets after construction, which in itself implies that the construction costs of new public lighting assets are funded by public lighting customers. It is only then a condition of contract that the DNSP requires vesting. From previous Essential Services Reviews of policy, the DNSP have indicated that they are open to negotiation on this.

“Whilst the Commission understands that the distributors require public lighting assets to be vested to them as a standard condition of contract, they have indicated that they are open to negotiation on this issue. If the distributor is assured by the public lighting customer that the safety and technical requirements have been met, then the assets may not need to be vested to the distributor.”⁷

We suggest these assurances the DNSP request directly relates to risk and management of risk and therefore if the public lighting customer has funded these assets since 2001, can we suggest that they may also be divested?

If all public lighting assets installed after 2001 are divested, then each of the market participants (including DNSP's) are able to charge public lighting services commensurate with a competitive commercial market for all assets installed after 2001. Ownership of the assets is returned to local government who then can comply with the competitive tendering practices of the Local Government Act Section 186⁸ and their individual requirements to fully cost the provision of public lighting within their respective communities.

⁷ Appendix I.7 Vesting of Assets – August 2004 Final Decision Review into Public Lighting Excluded Service Charges

⁸ Local Government Act 1989 Version 101 September 2009

Every public lighting luminaire sold in Australia must comply with at least the provisions of Australian Standards AS1158.6 – Public Lighting Luminaires. For example one of those provisions is marking the date when the luminaire was manufactured. It can be found visibly on the body of most streetlights within Victoria.



This streetlight was installed in 1993 therefore it is subject to Australian Energy Regulator's AER Alternative Control Service Classification and should attract a minimal Written Down Value (WDV)



This streetlight was installed in 2008 and therefore it can be divested and handed back to the customer at no charge unless it has replaced a previous asset after 2001 and therefore subject to an agreed WDV

This will ensure public lighting customers who choose to invest in new lighting assets are not paying ballooned written down values to DNSP's for assets that have reached the end of their useful life of 20 years.

In the case where the DNSP can demonstrate proof of replacing an asset before its useable life, ie in the case of vandalism, accidents and after 2001, where the customer has not yet paid for the replacement costs then a written down value needs to be paid to the DNSP to compensate them for the loss of the asset.

Can we suggest that all other assets installed after 2001 and have only been subject to normal OMR can be taken back by the public lighting customer at request and at no cost to the customer to facilitate competitive tendering of these services?⁹

⁹ Public Lighting Information Sheet No 1 13th August 2004 Essential Services Commission, Page 4 Paragraph 2

Reclassifying Public Lighting

Can we suggest that the Australian Energy Regulator approach the economic regulation of all Public Lighting in Victoria in respect to when the asset was installed? Approaching regulation this way will enable all assets to be readily identified and therefore a simple calculation for public lighting customers in respect to calculating the written down values¹⁰ of existing public lighting assets as public lighting customers proceed with their individual public lighting efficiency programmes.

Assets installed Prior to 2001	OMR of all public lighting assets installed after 2001	New public lighting asset construction
Alternative Control Service OMR Non Contestable	Contestable Negotiated Service	Contestable Negotiated Service

In a competitive market, this would reduce the barriers associated with public lighting and councils wishing to accelerate their own public lighting objectives by obtaining services attuned to their local needs.

This approach would also then clarify any policy confusion with the Essential Services Commission¹¹ regarding public lighting and the ¹²Local Government Act Section 186 of Entering in Contracts above \$150,000.

In both existing cases of OMR services on assets installed and new assets, the DNSP is free to charge OMR on the basis of a competitive environment, the customers' requirements or the conditions of the individual contract with the Public Lighting Customer.

¹⁰ Energy Efficiency Public Lighting Charges – Final February 2009 – Australia Energy Regulator

¹¹ Review of the Public Lighting Excluded Service Charges - 23rd April 2004 Page 75 & 76 – Draft Decision

¹² Local Government Act Section 186

Proposed New Public Lighting Assets

Considering the confusion regarding councils and the contestability of these services, can we propose that the Australian Energy Regulator include reference to the Distribution Service Installation Rules in its Distribution Determination in relation to new public lighting provision.

The Public Lighting Code 2005 as a regulatory standard in conjunction with Distribution Service and Installation Rules (SIRS) 2005 indicate that there is scope for a clear and structured framework by which all stakeholders can ensure that ¹³risks are addressed and dealt with.

Distribution Service Installation Rules

Clause 7.8.5.1 – Equipment Installed on a Distributor’s Pole

Typical equipment that is subject to an agreement with the relevant distributor and compliance with the Shared Use of Poles Code includes:

- *Electrical installations attached to poles for broadband transmissions and mobile library supplies; and*
- *Parts of electrical installations containing other than the consumers terminals and service protection devices, eg; circuit breakers, residual current devices or the control gear and cabling that supply electrical installations such as bus shelters, telecommunications equipment, **public lighting**, sprinkler systems etc; and*
- *Lights, Traffic Signals, Antennas, telecommunication/broadband cablings, signs, banners, decorations etc.*

Application for installation of equipment on a Distributor’s Pole should be made in accordance with clause 5.4 (Application for Supply) at the earliest opportunity after a decision to proceed is made.

“In all cases where equipment other than network assets are located upon a Distributors pole, the customer/person or body responsible for the equipment shall be responsible for the installation, maintenance and liability associated with their equipment. This shall include the removal and/or relocation of the equipment if it impedes use of the pole by the Distributor, and the removal and re-instatement of their equipment upon pole maintenance, relocation or replacement.

¹³ Distribution Service and Installation Rules 2005 Chapter 7

Risk and Administration Fee

Through Clause 7.8.5.1 of the SIR¹⁴, it is clear that the risk obligation of all assets mounted on the Distributor's pole is transferred to the customer or customer's agent, including installation, the ongoing maintenance and liability associated with that asset.

Can we propose that based on this risk transfer that a fair and reasonable fee is paid to the Distribution Network Service Provider commensurate with the level of risk held by the DNSP for the duration of the proposed works. For no ongoing risk, then a small administration fee is fair and reasonable

Clause 4.4¹⁵ of the Public Lighting Code already stipulates that the requirements of the DNSP to provide all information to allow a 3rd party access on behalf of the public lighting customer. Therefore can we propose the fee payable by the customer be a small administration fee?

This ensures that councils can adequately cover all costs, expenses under the public lighting project budget and allocate the level of risk commensurate with the contracts engaged for the project.

Public Lighting Code

The purpose of the Public Lighting Code is to regulate the provision of public lighting or the arrangements for such provision by specifying minimum standards and certain obligations of distributors.

Can Citelum suggest that all market participants including itself, new participants and the existing providers of public lighting, that the Public Lighting Code in its reference to minimum maintenance standards be the foundation or starting point for services to public lighting customers.

Further improvements to the public lighting code would be part of the Negotiated Classification of the Public Lighting Service.

Anything in the code that relates to matters of a commercial nature is bound under the proposed Negotiated Classification of Public Lighting Services.

¹⁴ Distribution Service and Installation Rules 2005 Chapter 7

¹⁵ Public Lighting Code Essential Services Commission 2005

Retail Energy

Public Lighting energy charges in reference to Public Lighting Information Sheet no 1 are considered contestable items. Up until now, the DNSP passes energy information onto the Energy Retailer or the Public Lighting Customer.

In other jurisdictions, Energy Retailers and DNSP's propose Energy Only Tariffs¹⁶ whereby the DNSP does not provide any operation, maintenance and replacement interest in the asset.

Can reference be made that customers are entitled to manage the entire public lighting networks themselves and negotiate the tariffs with energy retailers on that competitive basis?

This will ensure that all stakeholders including retailers understand the shift in market structure with new participants competing for OMR.

As specific street lighting devices are not detailed on the AEMO Load Table for unmetered Type 7 installations, can the Australian Energy Regulator please include reference that customers can use all load table profiles from all NEM jurisdictions.¹⁷

This would also ensure that as each state develops new technology, then all jurisdictions benefit from the upgrade of the load table and the advancement of technology.

New Lighting Equipment

Full contestability of the OMR Public Lighting Services in Victoria would also allow for the rapid deployment and development of efficient public lighting technology.

Australian Standards that apply to the supply of lighting fittings are as follows:

- ASNZS60598
- AS1158.6 and
- AS3000

Through Clause 7.8.5.1 of the Service and Installation Rules (SIR's) the risk of the asset is transferred to the customer or the customer's agent.

Therefore can the Australian Energy Regulator include that under the Negotiated Framework of Public Lighting, that these are the only standards required?

¹⁶ CLER Tariff South Australia

¹⁷ National Electricity Load Tables for unmetered connection points Version 1.20 Part 3

Conclusion

Currently there is effort being demonstrated by Local Government in accelerating their programmes for more efficient street lighting within Victoria.

The Essential Services Commission have always maintained clarity on the policy of public lighting but unfortunately the stakeholders that matter do not understand the implications of these policies and issues surrounding contestability. Nor are they informed of their own legislative obligations in regard to the procurement of these goods and services.

Citelum suggest that to align the policy rules and regulations, that the Australian Energy Regulator needs to consider these aspects before implementing the full regulatory determination over the next 4 years.