

Local Government Association of NSW



Shires Association of NSW

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12 December 2007

Mr Mike Buckley
General Manager
Network Regulation North Branch
Australian Energy Regulator
GPO Box 1313
CANBERRA ACT 2601

Dear Mr Buckley

Response to AER Issues Paper Distribution Issues

The Local Government Association of NSW is the peak body representing 74 metropolitan and regional councils in New South Wales. The Association is governed by an elected Executive and policies formulated by its Annual Conference. With its sister organisation the Shires Association of NSW, the Associations represent the views of 152 general purpose and 14 special purpose councils in New South Wales to federal and state governments, promotes Local Government to the community, and provides specialist advice and services to councils in areas which include industrial relations, training, recruitment, web support, and environmental management.

The Associations have previously provided you with a copy of a submission forwarded to the NSW Department of Water and Energy, in the form of a comparison between the 3 public lighting providers on the extent to which each has complied with the NSW Public Lighting Code.

Councils in NSW have had numerous serious concerns about the inadequate regard that IPART has been able to consider council objections to price increase applications lodged for public lighting services.

The Associations strongly advocate that AER seek essential changes to the regulatory approach. Public lighting pricing reviews in NSW have been highly contentious and consumed a considerable amount of time in recent years. The evidence of this is readily visible in the public record of pricing reviews on the IPART website. Without some important changes to the approach, these difficulties are highly likely to continue.

From a council perspective, the key reasons for the current concerns are:

1. **Lack of a clear link between price and service levels.** It is simply not possible to effectively regulate price for public lighting without clearly defined service levels. At present, the voluntary NSW Public Lighting Code does not regulate service levels or service level agreements between DNSPs and councils. There are no meaningful commercial or regulatory consequences of any failures to meet acceptable service levels. The current NSW pricing regulations for Excluded Services have created difficulties for IPART in being able to adequately match the link between price and service levels.
2. **Reasonableness of public lighting pricing review process.** While councils have been given the opportunity to comment on pricing proposals made to IPART by Energy Australia, Integral Energy and Country Energy, the costing information provided in such proposals has been extremely limited. In practice, it has been too limited to assess whether the proposed pricing is reasonably cost-based. Councils have not had access to any underlying pricing information and have been at a significant information disadvantage in pricing reviews. This is both inappropriate and unnecessary, given the monopoly nature of the service.

In objections recently lodged by the Associations to IPART on a claim for increased public lighting charges the Associations disputed the ability of a service provider/business unit or subsidiary business to be able to bear its own substantial overheads as well as full corporate overheads.

This appeared to be double dipping and a clear control is needed to prevent hidden price escalations.

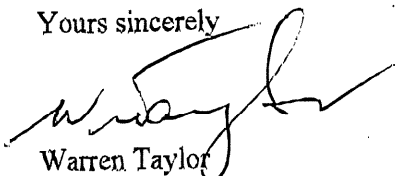
3. **No test of the efficient cost of service.** Many practices called for in the Public Lighting Code are acknowledged as being cost-reducing compared to current practice, yet have not been implemented. The recent pricing review processes do not appear to test the pricing proposals against the cost of an efficiently provided service. Without such a clear test, there are no incentives for DNSPs to control public lighting costs.
4. **Lack of meaningful say over technology choice.** A unique aspect of public lighting is the importance of technology choice decisions by the DNSPs. These decisions have a marked impact on outcomes for the customer and at present, councils have no meaningful say over many aspects of technology choice.
5. **In Victoria,** a detailed public lighting pricing model covers the most common types of lighting, that was developed in consultation with customers and DNSPs. The resulting schedule of fixed prices provides a readily understood pricing outcome and clear set of benchmarking data for all parties. AER is urged to give consideration to this outcome.
6. **Rolling forward current asset bases.** The current street lighting asset base appears to be based on the possible future privatisation of network assets rather than consideration of the current state of the assets. There is significant evidence of many years of under-investment and mis-investment in public lighting and assumed valuation warrants reconsideration.

AER should consider whether current capex needs reflect a significant component of "catch-up" as a result of past under-investment or bad practice.

7. The Associations disagree with the apparent acceptance by the AER of DNSP claims of "under-recovery" in Section 3.4.2 of Issues Paper without first robustly testing these claims. Also of concern is the AER suggestion in Section 3.5.2.3 that, "One option for addressing current difficulties would be to simply escalate current revenues or prices."
8. **Timing of pricing reviews and rate capping create significant concerns.** The Council budget making process commences in the early part of the calendar year and public lighting pricing decisions in mid-year, after budgets have been finalised, are very challenging for councils to manage. This is particularly so because councils are subject to rate capping and have little budget flexibility. Repeated increases in public lighting pricing above CPI are placing a significant strain on council budgets and resulting in cutbacks to other community services.
9. This issue was hotly debated at the recent Annual Conference of the Local Government Association of NSW, and **Resolution 33** requested that you not adopt this most unacceptable process, because of the inability of councils to effectively amend the annual Management Plan in the first month of a new financial year.

The Associations would welcome your response, and please contact myself, the Association's Manager Special Policy Projects, by phone 02 9242 4120 or email warren.taylor@lgsa.org.au.

Yours sincerely



Warren Taylor

Manager Special Policy Projects