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canterbury

city of sydney

hurstville

kogarah

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randwick

rockdale

sutherland shire

waverley

woollahra



SSROC

southern sydney regional
organisation of councils

10 December 2007

Mike Buckley
General Manager
Network Regulation North Branch
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Dear Mr Buckley,

RE: Comments on AER Issues Paper: Matters relevant to Distribution Determinations for ACT and NSW DNSPs for 2009-2014

Thank you for the opportunity to comment on the AER Issues Paper: *Matters relevant to distribution determinations for ACT and NSW DNSPs for 2009-2014 (Nov 2007)*.

With respect to the key question in the Issues Paper about whether current public lighting pricing mechanisms in NSW should be maintained as is, council's position is that they should not be. Indeed, change is essential for all parties as detailed in this letter.

BACKGROUND

Councils in metropolitan Sydney, the Central Coast and Hunter region have been working together since 2003 through the Street Lighting Improvement (SLI) Program to address a range of public lighting issues. Collectively, the 29 councils encompass 85% of EnergyAustralia's street lights and more than 40% of street lights in NSW.

Public lighting is an essential public service with important safety and security implications for the community. Public lighting services in NSW remain a monopoly and councils have no recourse to a contestable market for public lighting services with respect to the existing 200,000+ lights owned by EnergyAustralia. This situation will not change unless there is considerable additional policy development by government. It is therefore essential that councils and the broader community be provided with clear and strong regulatory protection by the AER. Council's recent experience with under-investment, an inability to influence technology choice and an array of maintenance and service issues makes this abundantly clear.

This submission is being made further to a meeting with AER staff on 2 November 2007 and further to providing the AER with a number of background documents in October and November 2007 illustrating the range of current challenges with the public lighting regulation, pricing and service provision in NSW. These documents included copies of submissions to the current NSW Dept of Water and Energy review of the Public Lighting Code and related submissions to other NSW government agencies.

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CHANGE IN REGULATORY APPROACH IS ESSENTIAL

As the AER has acknowledged, public lighting pricing reviews in NSW have been highly contentious and consumed a considerable amount of time for all parties 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 challenges appear to be:

- **Lack of a clear link between price and service levels** – Councils would submit that it is simply not possible to effectively regulate price for public lighting without clearly defined service levels. This is particularly the case for public lighting where a number of aspects of the maintenance regime and technology choice (see below) have a marked effect on the lighting outcomes on the streets. At present, with a voluntary NSW Public Lighting Code, there is neither NSW regulation clarifying required service levels nor any service level agreements between DNSPs and councils. There are therefore no meaningful commercial or regulatory consequences of any failures to meet acceptable service levels. The current NSW pricing regulations for Excluded Services (eg Rule 2004/1) appear to have created considerable challenges for IPART in being able to adequately consider the link between price and service levels. This situation is in stark contrast to Victoria where certainty for all parties is provided by a mandatory Public Lighting Code.
- **Lack of meaningful say over technology choice** – In addition to the maintenance regime, 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. To illustrate the importance of the issue, two lights with identical capex, identical reliability, identical maintenance regimes (eg identical opex) and identical energy consumption can have lighting outcomes in terms of effective light output and compliance distances achieved on the roadway that differ by as much as 50%.
- **Information asymmetry in public lighting pricing review process** - While councils have been given the opportunity to comment on pricing proposals made to IPART by EnergyAustralia, 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. The lack of information in public lighting pricing proposals has been confirmed by consultants to IPART who, to complete their reviews, have had to ask for access to asset inventories, past and projected expenditures (and breakdowns of these expenditures), cost allocations, cost components, asset replacement policies, asset renewal programme details, maintenance program details and a variety of other pricing and policy information. Councils have not had access to this 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.
- **No robust test of the efficient cost of service** – Pricing proposals by DNPSs contain various assertions about costs incurred without any apparent test of the reasonableness of these costs. Externally, it appears that there are many underlying inefficiencies (eg we note that many practices called for in the Public Lighting Code are acknowledged as being cost-reducing compared to current practice). The recent pricing review processes do not appear to robustly test the pricing proposals against the cost of an efficiently provided service. Furthermore, without such a clear test, there do not appear to be any incentives for DNSPs to control public lighting costs.

I note the contrast between the recent pricing review processes in NSW with Victoria where a detailed public lighting pricing model covering the most common types of lighting was developed in public process in consultation with customers and DNSPs. The resulting schedule of fixed prices based on a building block review of underlying costs of service provides a both a readily understood pricing outcome and clear set of benchmarking data for all parties. I recognise that this is not the building block approach envisioned by the AER in its Issues Paper but urge that this approach be given some further consideration.

On a related matter, councils note with concern, 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."

- **Council concern about rolling forward current asset bases** – Councils would be concerned about the AER suggestion of simply rolling forward existing asset bases as a starting point for valuation (Section 3.5.2.4). The current street lighting asset base appears to be based, in part, on the possible future privatisation of network assets rather than a robust consideration of the current state of the assets. In reality, there is significant evidence of many years of under-investment and mis-investment in public lighting. The assumed valuation therefore warrants reconsideration and we'd also urge the AER to recognise that current capex needs reflect a significant component of "catch-up" as a result of past under-investment.
- **Timing of pricing reviews & rate capping create significant challenges** – 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 cut-backs to other community services.

I would be pleased to meet with the AER again at any point to discuss the future pricing oversight regime for public lighting in NSW.

Yours sincerely,



David Lewis
General Manager - Southern Sydney Regional Organisation of Councils

Cc: *Bill Gillooly AM, Secretary General – Local Government and Shires Associations*
Leisl Baumgartner, DWE
Dr Dennis Mahoney, IPART
SLI Program Councils