



9 February 2017

Mr. Ed Chan, Director and Mr Ben Davis, Senior Adviser
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

(Submitted via <http://www.aemc.gov.au/Contact-Us/Lodge-a-submission.aspx>)

Dear Mr Chan & Mr Davis

Re: SSROC SLI Program Submission to the AEMC on ERC0206 Contestability of Energy Services

Thank you for the opportunity to comment on the AEMC's current rule change request on the Contestability of Energy Services (ERC0206). This submission relates specifically to public lighting and urges the AEMC to consider:

- A. measures the AEMC can take to facilitate the introduction of both comprehensive public lighting service-level regulation and expanded contestability of public lighting;
- B. developing an access framework to facilitate future contestability of public lighting services; and
- C. allowing customers to fund replacement lighting across the NEM.

The Southern Sydney Regional Organisation of Councils (SSROC) makes this submission on behalf of 30 councils participating in the SSROC Public Lighting Improvement Program and constituting approximately 95% of all the public lights in Ausgrid's distribution area, about 40% of public lights in NSW and about 10% of public lighting nationally.

Direct council control of public lighting is the norm in much of the developed world and, in some other overseas jurisdictions where this is not the case, steps towards transferring control of lighting from utilities to local councils is underway in an effort to speed up LED and smart controls deployments. It is in this context that SSROC is asking the question about whether steps should be taken in the National Electricity Market to facilitate enhanced contestability of public lighting services.

Current classification of public lighting as alternative control service

Public lighting in NSW and most other jurisdictions in the NEM is an alternative control service. In the current circumstances SSROC and many others representing local government support the AER's classification because, while public lighting is an energy service in the NEM that could potentially be contestable and open to robust competition, it is currently neither contestable nor is there any prospect of meaningful competition. In the absence of regulatory reform, it is essential that public lighting pricing continues to be regulated by the AER.

A good summary of the current situation is found in the AER's 2013 conclusion after a review of NSW public lighting where it found that, *"Given the current circumstances, we consider a direct form of regulation is necessary. We consider there to be significant barriers preventing third parties from providing public lighting services. While the NSW distributors do not have a legislative monopoly over these services, a monopoly position exists. This is because the NSW distributors own the majority of public lighting assets. That is, other parties would need access to poles and easements for instance to hang their own public lighting assets. However, the NSW distributors own and control such supporting infrastructure. Therefore, similar to network services, ownership of network assets restricts the operation, maintenance, alteration or relocation of public lighting services to the NSW distributors. There is some limited scope for other parties to provide some public lighting services. For example, other parties may construct new public lights or perform works on independently owned public lighting assets. Apart from these limited exceptions, the AER considers that a high barrier exists preventing third parties from entering this market. This limits competition in public lighting."*¹

Inherent misalignment between utility ownership of public lighting and legal responsibilities of road authorities

As road authorities, councils and main road agencies have exclusive powers under their respective roads acts and local government acts to decide whether to light each roadway, to what level and in what manner. This creates an onus on them to discharge these powers responsibly.

At present, however, Australian road authorities are unable to meaningfully discharge their public lighting responsibilities in important respects as there is no clear basis of service governing the relationship between the utility owners of most public lighting and the road authorities.

As SSROC, IPWEA² and other parties have noted for some time, this situation has created a fundamental misalignment between the ownership of public lighting and responsibility for the service in the National Electricity Market. This has resulted in on-going challenges for local councils, main road agencies, DNSPs and the AER in administering public lighting. Without change, these challenges are likely to escalate over time as pressure for LED deployments, smart controls and inter-related smart city technology grows.

Comprehensive Service-Level Regulation and Expanded Contestability Are Needed

The current misalignment of interests could be addressed through either or preferably both of the following mechanisms:

- a. the introduction of comprehensive service-level regulation; and
- b. expanded contestability in the area of public lighting that gives councils and main road agencies the option of choosing their public lighting service provider if they so wish.

Widespread experience overseas suggests that resumption of council control of public lighting technology decisions would lead to faster deployment of new energy efficient lighting technology. Notably, the great majority of the largest LED and smart controls deployments globally have been led by councils with LED deployment by utilities lagging across markets where utilities own public lighting.

¹ AER Stage 1 Framework and Approach – NSW electricity distribution network service providers, page 36, March 2013

² See IPWEA SLSC Roadmap Sections 4 and Section 11.2

While SSROC recognises that some aspects of the changes required in these areas may be beyond the powers of the AEMC, the AEMC has an important role in facilitating and advocating for change in these areas at a national level. And, there are some specific steps that the AEMC could take.

Robust access regime is a vital first step in facilitating future contestability of public lighting

In considering how to achieve meaningful competition in public lighting services, one of the most effective initial steps that the AEMC could take is to develop a robust access regime for appropriately qualified providers wishing to offer public lighting services.

A robust public lighting access regime would require:

- Clear delineation of asset ownership between lighting and network assets
- Access rights to the network for appropriately qualified personnel operating on behalf of councils and main road agencies
- Clarification of the responsibilities of the parties (eg with respect to safety, acceptable installation geometries, acceptable equipment, acceptable connection approach to the network, information provision obligations)
- Clarification of the liabilities of the parties
- Pricing of residual monopoly services related to public lighting would continue to require regulatory oversight. The utilities may seek to levy pole access, inspection and inventory verification or other new types of charges. It would be essential to give pricing certainty and protect the road authorities from any unreasonable charges by the utility. In some regions up to 75% of public lighting is mounted on wooden distribution poles and the cost of replicating the pole network, for what is an essential public service, would be prohibitive. There is therefore a strong case that access rights should be granted on equitable terms and some degree of price protection for that access afforded to the road authorities.
- Consideration may need to be given to the appropriate interpretation of AS3000 with non-DNSP entities owning public lighting assets directly connected to and mounted on the distribution network. SSROC understands that this issue is being given detailed consideration in both QLD and the ACT at present in the context of non-DNSPs potentially owning public lighting assets.

Allowing customers to fund replacement lighting across the NEM

Another initial step that the AEMC could take to both lower costs for customers and to facilitate future contestability in public lighting is to require DNSPs to allow customers the option of funding any replacement lighting on their network. This tariff option is referred to as a 'Rate 3' tariff in some jurisdictions but is not currently offered by most utilities in the National Electricity Market.

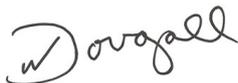
Replacement lighting far outweighs new additions, typically making up about 80% of capital investment in public lighting on most DNSP networks. Allowing customers to fund their own replacement lighting would enable councils and main road agencies to replace lighting at a cost of capital that is typically 2-3% lower than under the current regime based on the AER-approved Weighted Average Cost of Capital allowed for the utilities and an ever escalating Regulatory Asset Base valuation of public lighting assets.

As assets dedicated to one particular customer, there is a strong case that these customers should be allowed to fund replacement lighting and not be compelled to accept utility funding of replacements made on their behalf.

In considering the implications of this for large-scale upgrades with LEDs and smart controls, councils and main road agencies able to fund their own replacement lighting could access lower cost capital offered by parties such as the Clean Energy Finance Corporation and complement this with financial incentives offered under the Emissions Reduction Fund, NSW Energy Savings Scheme and Victorian Energy Efficiency Target scheme.

SSROC welcomes further discussion with the AEMC, AER, AEC and DNSPs about this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Namoi Dougall'. The signature is written in a cursive style with a large initial 'N'.

Namoi Dougall
General Manager
Southern Sydney Regional Organisation of Councils