# CitiPower and Powercor

# Submission in response to the AER's public lighting forum

13 July 2015

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# Public lighting

## 1 Introduction

On 22 June 2015, the Australian Energy Regulator (**AER**) held a public forum to discuss its classification of public lighting assets in Victoria for the 2016–2020 regulatory control period. This forum focused on the split of dedicated public lighting assets from shared public lighting assets, and the unbundling of operation, maintenance, repair and replacement charges for dedicated public lighting assets.

We understand the AER expects its proposed service classifications for public lighting assets will facilitate greater customer choice and enable competition such that more efficient outcomes can be achieved (than could be provided by the AER setting regulated prices). In particular, the AER considers that classifying dedicated public lighting assets as a negotiated service will enable councils to better control lighting options.

More broadly, we support customer choice and competitive frameworks where these can be demonstrated to lead to more efficient outcomes. Our submission in response to the public forum, however, highlights that regardless of the changed service classifications, many of our costs in regard to public lighting will remain irrespective of who provides the public lighting service. We also set out why the change in service classification for public lighting assets is likely to be administratively complex.

In this context, we consider the AER's proposed service classification may not lead to the intended efficient outcomes or meet the majority of council (customers) needs. We further note that several of the AER's intended benefits are achievable without the need for a change in service classification.

## 2 Our service and safety obligations are unchanged

As set out in our response to the AER's framework and approach paper, we consider that legislative or regulatory provisions do not prevent or constrain third parties from providing public lighting services. Third party services, however, must be performed with our written permission and carried out in accordance with any conditions imposed by us in giving that permission.[1]

Central to our access policy is that we cannot simply 'contract out' our relevant safety obligations. That is, regardless of who undertakes relevant works, and irrespective of the AER's service classification, we remain liable for a range of service, safety and regulatory obligations.[2]

As a result of these liabilities and obligations we must maintain a range of processes, asset data systems and reporting capabilities. These processes and systems enable regulatory reporting against our guaranteed service level (**GSL**) obligations, as well as maintenance of our safety records (including polarity and earth tests). Each of these systems must allow the audit of our performance. Further, to ensure the safety of contractors and the public, we maintain for example, mechanisms for emergency response and recovery of related costs; systems for passing on the details of lights reported as out-of-service to the council if they are taking responsibility; and any service in responding to customer follow up in regard to street light services.

If third parties could be engaged directly by a council to provide public lighting services—a scenario envisaged by the AER—these third parties would presumably be required to also maintain their own systems and processes. This would include auditable systems and processes to allow us to ultimately meet our compliance obligations.

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1 See, for example, regulation 304 of the Electricity (Installations) Regulations 2009, which enables conduct meeting these criteria that would otherwise be prohibited.

2 These obligations include those under the Occupational Health and Safety Act 2004; section 98 of the Electricity Safety Act 1998; and the Electricity Safety (Management) Regulations 2009. A further discussion of these obligations is included in our response to the AER's framework and approach paper.

Given the overlap in systems and processes required under all scenarios, it is not clear how amending the service classification by itself will facilitate more efficient outcomes. That is, there are significant costs that will remain with our business regardless of who undertakes the relevant public lighting works.

## 3 Benefits achievable under the existing service classification

In its framework and approach paper, the AER correctly set out that where public lighting assets are built to the Victorian Electricity Supply Industry (**VESI**) standards these assets must be owned by the relevant distributor.[3] A council or other customer can still own and operate public lighting assets, but these assets must be built to the general wiring standards.

The Public Lighting Code also contains provisions that facilitate negotiations between customers and distributors on the service level for public lighting assets. This includes the ability for councils and other customers to negotiate on the specification and installation of new technologies or non-standard fittings. Like the ownership requirements, these provisions are unaffected by the AER's service classification.

Another example is that distributors already use open market tenders for many of the services the AER envisage being undertaken by councils following its classification change.[4]

Given the above, as well as the discussion in section 2, it is unclear what benefits can be expected from the changed service classification that cannot already be achieved. Or stated alternatively, any barriers that currently exist to achieving more efficient outcomes will not be addressed by the AER's service classification.

## 4 Administrative complexity

Under the changed service classifications, the AER envisages that councils (or other relevant customers) could appoint third parties to undertake public lighting works. For the reasons discussed in sections 2 and 3, however, if this scenario occurs negotiations will still be required between distributors and councils irrespective of who undertakes the public lighting works. Further, to the extent negotiations are undertaken separately between each individual councils or relevant customers, the administrative costs to all parties will be significant. This is compounded across Victoria relative to other jurisdictions, given that five separate distributors exist.

The scope for potential arbitration by the AER, therefore, is significant. This is particularly likely for councils that stand to be adversely impacted by the change in service classification. For example, moving toward a more cost reflective outcome per council would logically result in reductions negotiated with one council necessitating rises for other councils.

Additionally, the negotiated public lighting experience in South Australia does not appear to have resulted in optimal outcomes. For example, as set out in SA Power Networks response to the AER's preliminary framework and approach paper, their most recent round of negotiations regarding public lighting charges with the Local Government Association and the Department of Planning, Transport and Infrastructure commenced in 2010. A successful negotiation is still to be concluded, and the protracted nature of the negotiations represents an administrative burden that led SA Power Networks to propose an amended service classification (for existing public lighting assets).

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[3] AER, *Final framework and approach for the Victorian electricity distributors, Regulatory control period commencing 1 January 2016*, 24 October 2014, p. 64.

[4] These tenders are subject to the access conditions discussed in section 2.

# 5 Consistency across alternative control service submissions

For the purpose of developing our regulatory proposal, we determined our alternative control service charges on the basis of shared lighting assets only. This reflects our understanding of the definition of a dedicated public lighting asset, as set out in the AER's framework and approach paper.

Under this approach, councils will not have visibility on our total public lighting costs. If they were to assume the proposed alternative control service charges were applicable to their entire lighting asset base, they would materially underestimate the actual costs of maintaining public lighting for the 2016–2020 regulatory control period. In this context, it may be appropriate for the AER to endorse and publish a default pricing list for negotiated public lighting assets that would apply until such time any alternative was negotiated.

We also understand that other distributors have submitted proposed alternative control service charges based on the total public lighting asset base, with the expectation these charges will remain in place until and unless specific negotiations occur in regard to prices for dedicated lighting assets. Any differences between distributors can be expected to result in further uncertainty in negotiations on dedicated assets.

In any event, we consider it is incumbent on the AER to ensure all distributors price on a consistent basis and that customers, therefore, have prices which are determined appropriately. As such, we seek clarity from the AER on whether each of the above approaches is permissible under its framework. That is, whether alternative control service charges should be based on the existing total public lighting base, or on the basis of shared public lighting assets only.

The AER should also consider clarifying the treatment of public lighting assets not installed on poles, such as lighting installed on third party assets.