

Mr Chris Pattas
General Manager – Network Investment and Pricing
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

13 July 2015

Dear Mr Pattas

Dedicated public lighting assets

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide the Australian Energy Regulator (AER) with written feedback regarding the proposed move to negotiated pricing for dedicated public lighting assets.

The MAV is the statutory peak body for local government in Victoria. We represent all 79 Victorian councils and work to advance the interests of the local government sector as a whole.

Following the AER's public lighting forum on 22 June and the AER's subsequent circulation of its presentation from that forum, the MAV wrote to all councils seeking their views on the proposed move to negotiated pricing for dedicating public lighting assets. Based on council feedback received to date, the majority of councils do not support the proposed move to a negotiated model. Victorian councils want the AER to retain its role in regulating the charges for dedicated public lighting assets.

While we appreciate the late efforts of the AER to engage with councils regarding the proposed change to a negotiated model, the MAV has concerns about the content of the AER presentation and guidance note that has been circulated to councils. In particular the lack of comment around the difficulties councils are likely to face if required to negotiate operation, maintenance, repair and replacement (OMR) charges for dedicated street lights, without the AER ensuring that the Distribution Network Service Providers (DNSPs) adopt reasonable charges. We do not believe the AER has adequately acknowledged the power of the DNSPs as geographic monopolies or the constraints councils will almost certainly face (and have faced) if they seek to use non-DNSP-approved service providers to work on DNSP assets.

The MAV has a number of concerns about the proposed move to negotiated pricing, not least because of the potential impost the negotiations will have on councils' time and resources. There are five DNSPs in Victoria and each of these DNSPs will need to be negotiated with independently. For several councils this will mean negotiating with two, or possibly three, DNSPs. While it may be more effective for councils to operate in groupings, a third party will likely need to be engaged to act on councils' behalf. The costs involved in pursuing the negotiations to a successful outcome are unclear, but are possibly substantial.

Under the proposed arrangement, if councils and the DNSPs are unable to reach a negotiated agreement, mediation and arbitration are the next steps. The AER has indicated that it will not play a role in the process. It has been suggested by the AER that the outcome in South Australia, where negotiated pricing has been in place for 10 years, is a success story however we understand from our South Australian counterparts that negotiations for the 2010-2015 pricing period have reached an impasse and that the relationship between councils and the DNSP has suffered as a result. Unlike Victoria, South Australia has had no success in progressing energy efficient lighting bulk changeover projects and much of councils' focus has been taken up with unsuccessful negotiations, with councils having less power than the DNSP monopoly. The proposed removal of the regulator's authority to balance this inequality is troubling.

While the current AER regulated pricing process is far from perfect, we believe having the AER act as an independent arbitrator is preferable to leaving the parties to attempt to work things out between themselves.

The MAV would welcome the opportunity to meet with the AER to discuss our concerns in more detail. The MAV contact is Claire Dunn, Manager – Environment & Regulatory Services, ph. (03) 9667 5533.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Spence', with a long horizontal line extending to the right.

Rob Spence
Chief Executive Officer