



30 November 2021

Mr. Kris Funston
Executive General Manager, Network Regulation
Australian Energy Regulator
GPO Box 520 MELBOURNE VIC 3001

Via email: AERresets2024-29@aer.gov.au

Dear Mr Funston,

NSW / ACT / TAS / NT Framework and Approach Consultation

Thank you for the opportunity to comment on the Framework & Approach to be used in the forthcoming 2024-29 pricing review. In summary, we believe that it is imperative that the AER continues to classify public lighting as an alternative control service.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of eleven local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. The SSROC Street Lighting Improvement (SLI) Program covers a wider footprint than our members. A total of 29 councils in metropolitan Sydney, the Central Coast and Hunter, work closely together to improve the provision of street lighting services for which they are responsible. That service is mainly provided by Ausgrid to the councils and is not contestable. The councils have therefore sought to work together with Ausgrid through the SLI Program for 18 years, covering a range of pricing, technology and service-related issues. The councils participating in the program collectively encompass over 230,000 street lights or more than 90% of Ausgrid's lighting and 40% of the street lights in NSW.

As per SSROC's submissions in connection with the past three determinations, in the absence of meaningful contestability, it is essential that public lighting pricing in NSW continues to be regulated by the AER in the 2024-2029 regulatory period.

The AER most closely considered this issue in 2013 where it concluded 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.”

SSROC does not see evidence that these circumstances have changed either in the policy framework with regards to contestability or in practice for participating councils.

SSROC notes Ausgrid's submission to the AER of 29 October 2021 supporting the position that public lighting continues to be classified as an alternative control service and welcomes this.

SSROC also notes and commends the DNSP's early Consultation Paper One: Service Classification exploring questions about how emerging street lighting technology is regulated.

Ausgrid has suggested in its submission to the AER of 29 October 2021 that further discussion by all parties is needed on how the regulatory framework can respond to changes to markets and technology within the regulatory period. This is a position that SSROC strongly supports and welcomes. We are more than willing to engage with the AER, Ausgrid and other stakeholders on these issues.

To that end, I want to briefly summarise the key points we made to the DNSPs in response to their Consultation Paper:

- While the utilities own most street lighting, it is councils and Transport for NSW that have the exclusive legal responsibility for providing the service (as the road authorities under the NSW Roads Act 1993 and as the local authority under the NSW Local Government Act 1993). This includes responsibility for determining whether to light a road or public space, to what level and in what manner.
- Fundamentally, neither councils nor Transport for NSW have meaningful control over many aspects of the lighting service for which they are responsible. They are not free to choose which service provider they have, which lighting technologies they have, the timing of new technology rollouts or to take any normal contractual action when service levels are not up to a reasonable standard.
- When the current regulatory regime was conceived, street lighting was effectively a commodity product. This situation has changed markedly with lighting having become much more like a fast-moving, end-use consumer appliance, and our view is that the regulatory approach has consequently become a poor fit for this service. SSROC is therefore advocating for the following in the forthcoming pricing review:
 1. **Pricing mechanisms that are able to respond to changing technology**
Fixed 5-year pricing approval cycles under the current approach are a very poor fit with fast-moving technologies. To address this, we would advocate for a standardised and transparent street lighting and smart device pricing model to be approved by the AER rather than pricing for every individual component;
 2. **Better alignment of incentives needed:** Most new lighting technologies, including LEDs and smart lighting controls, reduce energy consumption and improve reliability, cutting revenue for the DNSPs and hence reducing incentives for adoption. This creates a fundamental misalignment of interests that is only growing as the pace of new lighting and inter-related smart city technology accelerates.

We note that, where councils and road authorities own and manage their own lighting directly (e.g. the ACT, NT, main road authorities, NZ and the UK), they have successfully adopted new smart lighting/smart city technologies at scale on average 2-4 years earlier than the DNSPs.

SSROC is open to all reasonable proposals to better align incentives. Our current view is that we see a move to the DNSP becoming the 'landlord of the pole' as a better model for the future of not just street lighting but of all devices that councils and state agencies may wish to place on poles. This approach might be most easily and effectively implemented with a new pole access regime with reasonable protections for all parties and with pole access charges being classified by the AER as an alternative control service. Street lighting could then be among the range of services facilitated under such a new pole access regime.

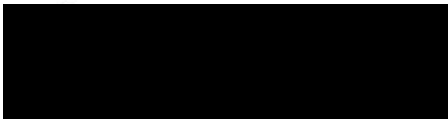


SSROC recognises that, because of the serious misalignments identified above, the current situation is not fit for purpose and becoming increasingly challenging for councils, road authorities, DNSPs, DPIE and the AER. As the pace of new lighting and inter-related smart city technology accelerates, this will become ever more challenging without fundamental reform.

We would welcome further opportunities to discuss the above matters and suggested approaches with the AER, with Ausgrid, with the other DNSPs and with state-based regulators.

Should you have any further enquiries in relation to this letter, please contact me by email ssroc@ssroc.nsw.gov.au.

Yours Sincerely



Helen Sloan
Chief Executive Officer
Southern Sydney Regional Organisation of Councils