

**Victorian electricity distribution network
service Providers:
Distribution determination 2011–2015
Draft decision**

Submission by

Streetlight Group of Councils

Prepared by



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Foreword

The Street Lighting Group of Councils (the Group, SGC) welcomes the AER's call for submissions Victorian electricity distribution network service Providers, Distribution determination 2011–2015, Draft decision of June 2010, and the opportunity to participate in the regulatory process for Regulatory control period commencing 1 January 2011.

The Group trusts our Submission and the issues we have raised will assist the AER in establishing compliant Distribution charges in Victoria that will enable public lighting users to pay fair and reasonable charges for public lighting services for the period.

Whilst the ESC established a process for determining OMR charges in 2004, the fundamental issues pertaining to the establishment of fair and reasonable public lighting charges in Victoria have (unfortunately) never been addressed.

We submit that without a review of key aspects of the framework surrounding these charges, that any process for developing charges will be critically flawed. Through its current process the AER has the opportunity to address these issues.

This Submission has been prepared by Trans Tasman Energy Group (TTEG), to represent the combined interests of Streetlight Group member Councils (Attachment A – List of Streetlight Group Councils). The views expressed are those of the authors and do not necessarily represent the views of any individual council.

The Streetlight Group

The Streetlight Group of Councils represents Victorian rural and metropolitan Municipalities, responsible for managing approximately 50% of the public lights in the State.

The Group was formed in December 2002 in the founding member Councils' recognition that their unresolved issues regarding Public Lighting OMR with DNSPs would best be resolved by a unified approach. Imbalances of market power between individual Councils and Distribution Network Service Providers (DNSPs) were preventing negotiation in good faith.

According to their public mandate and statutory empowerment the Groups' member Council's obligations are to deliver balanced economic, social and environmental outcomes, in the public interest of their constituents.

In working in the Victorian Public Lighting sector for that past decade the Streetlight Group member Councils are the most knowledgeable in the Local Government Sector in terms of commercial and regulatory aspects pertaining to Public Lighting.

TTEG Consultants

Trans Tasman Energy Group Consultants (TTEG) has prepared this Submission for the Streetlight Group of Councils. TTEG Consultants (www.tteg.com.au), provide specialist energy sector advice including commercial and regulatory aspects pertaining to Public Lighting.

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Timeframe

The Group appreciates the ESC extending the closing date of Submissions to August 27th.

Further Assistance

The ESC is invited to seek further comments on any points in this Submission from:

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GLOSSARY

AER	Australian Energy Regulator
CAPEX	Capital expenditure
Code	Public Lighting Code, Victoria
CPI	Consumer Price Index
DNSP	Distribution Network Service Provider
DUOS	Distribution Use of System Charges
EDPD	Electricity Distribution Price Determination
EDPR	Electricity Distribution Price Review
EIA	Electricity Industry Act 2000
EIRPA	Electricity Industry Residual Provisions Act 1993 (Vic)
ESCV	Essential Services Commission, Victoria
ESCOSA	Essential Services Commission of South Australia
GSL	Guaranteed Service Level
M	Public Lighting Maintenance
MUT	Maximum Uniform Tariff
NER	National Electricity Rules
O	Public Lighting Operation
O&M	Public Lighting Operation and Maintenance
OMR	Operation, Maintenance, Repair and Replacement (of Public Lights)
OCEI	Office of Chief Electrical Inspector
ODRC	Optimised Depreciated Replacement Cost
ORG	Office of the Regulator-General
PLC	Public Lighting Code, Victoria, ESCV 2005
R	Public Lighting Replacement
RAB	Regulatory Asset Base
SECV	State Electricity Commission Victoria
SGC	Streetlight Group of Councils
SPA	SP - Ausnet
TTEG	Trans Tasman Energy Group Consultants
WACC	Weighted Average Cost of Capital

1 SUMMARY

This Submission to the Australian Energy Regulator (AER) is lodged by the Streetlight Group of Councils (the SGC) in response to the AER's Victorian electricity distribution network service providers, Distribution determination 2011–2015 (Draft) of June 2010 (the Paper).

Recognition

In providing our Submission we recognise that the National Electricity Rules (NER) require the AER to make a distribution determination for each Distribution Network Service Provider for the regulatory control period commencing on 1 January 2011, by following the process set out in Part E of Chapter 6.

In the AER undertaking this process we recognise and appreciate the AER's efforts in providing more reasonable and realistic costs in its Draft Determination compared to those submitted by the distribution businesses.

Our Submission

Our Submission is solely focussed on the Distributor's proposed public lighting charges i.e. section 19 of the AER's Paper.

Our Submission supports the AER's rejection the Victorian DNSPs' proposed public lighting OMR charges on the basis that the opex and capex inputs do not reflect the efficient costs of providing public lighting services over the forthcoming regulatory control period.

In providing our support we have provided responses to the specific clauses in the AER's Paper in section 3 of our Submission, where we have also identified some further items for the AER's consideration.

In our Submission we have also alerted the AER to some significant issues for consideration in its process regarding a "material error" regarding the treatment of capital costs in the AER's Paper and potential "material deficiency" concerns regarding the framework which require to be addressed to enable the successful development of the public lighting sector and fair charging over the period.

We have also alerted the AER to potential compliance (Price Control) issues from having OMR charges split between "Alternative Controlled Distribution Service" and "Negotiated Distribution Services" classifications.

Distributor Proposals and OMR Charges

The AER's Paper proposes around a 20% increase in OMR charges despite a number of councils paying for new light installations (e.g. T5 luminaires) which effectively will remove a significant cost impost from distributors for maintaining existing lights.

DNSP	2010	2011 DRAFT estimated	% var DRAFT
United	\$ 5,132,283	\$ 6,499,076	27%
SPA	\$ 4,746,513	\$ 5,453,312	15%
Citipower	\$ 3,275,661	\$ 4,471,664	37%
Powercor	\$ 6,133,274	\$ 6,921,331	13%
Jemena	\$ 2,922,397	\$ 3,363,335	15%
Total	\$ 22,210,128	\$ 26,708,719	20%
Variation \$		\$ 4,498,591	

We also observe in the following table that the Paper's OMR charges provide distributors with around a 53% average increase in revenues since October 2004 for providing the same services they as they were in 2004 yet component costs are significantly lower (eg 80MV luminaire, PE cells, lamps etc) than 2004, coupled with the impact of the new technologies (above).

For perspective, we note that the CPI over the period October 2004 to date has only increased 16%.

DNSP	2004 est	2011 DRAFT estimated	% var
United	\$ 3,599,529	\$ 6,499,076	81%
SPA	\$ 4,212,704	\$ 5,453,312	29%
Citipower	\$ 2,181,291	\$ 4,471,664	105%
Powercor	\$ 5,022,768	\$ 6,921,331	38%
Jemena	\$ 2,410,738	\$ 3,363,335	40%
Total	\$ 17,427,030	\$ 26,708,719	53%
Variation \$		\$ 9,281,689	

We note from the Paper that several distributors have changed their models yet these revised models have not been provided for scrutiny.

In addition to the component costs, we expect the treatment of capex is a significant contributor to this increase.

The capex and other key points from our Submission are summarised below.

Component and Operational Costs

In our Submission we have supported the AER's assessment of:

- its rejection of opex and capex proposed by the distributors as it does not represent efficient cost inputs to derive overall opex and capex requirements.
- the AER's definition of OMR as representing Operation, Maintenance and Repair i.e. "Replacement" is not a DNSP's entitlement.
- its removal of the 10% "buffer" from its 2011-15 model.
- Impaq's allocation of overheads across both normal hours and out of hours operations.
- an allocation of profit at 3% for the reasons outlined by Impaq.
- establishing labour rates consistent with the 2011-15 regulatory requirements.

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- the reduction in costs associated with traffic management but propose further reduction (below)
- charges being established by light type

In our Submission we propose further consideration by the AER, including:

- All distributor models are critically flawed as they incorrectly treat the capital cost of replacement lights as being funded by the distributor.(refer below)
- Predicting capex is problematic and requires further consideration as it is customers and not distributors that establish the replacement light types and the type of technology, which in turn impacts on whether the OMR will be treated as an "Alternative Controlled Distribution Service" or "Negotiated Distribution Services".
- the GIS component of \$100,000 p.a. as distributors already receive payment for maintaining inventory and light type data.
- The costs attributed to traffic control as these cost were already included in the ESCV's 2004 assessment albeit not as a separate component
- Material costs in the models are too high eg MV80 lamp \$4.35 and luminaire \$158.55¹, and PE cells \$13.50 to \$18.45. A fair and reasonable cost should not exceed \$1.98, \$85.65²³ and \$12.00 respectively.
- a maximum of 15% should be applied across all distributors for MV80 failures between bulk changes i.e. an approach consistent with that adopted by the AER for T5 lights.
- There is no consideration provided to "X" for a CPI-X price path.

Material Impact

We are alerting the AER to some significant issues pertaining to the public lighting sector framework for consideration in the 2011-15 process regarding a "material error" (refer Capital Cost below) in the AER's Paper and potential "material deficiency" concerns regarding the framework (as further explained in section 5), which require to be addressed to enable the successful development of the public lighting sector and fair charging over the period, including:

- A tiered pricing structure to be introduced to enable effective recognition of capital financing and remove any concerns regarding Part IV of the Trade Practices Act 1974 (the Act) , particularly sections 45, 46 and 47.
- The Public Lighting Code (PLC) has been used to establish service requirements in the current determination process. The PLC however requires a complete and critical review.
- DNSP's are claiming a cost of residual life for any early retirement of MV80 lights – even though DNSPs have not invested in these lights?

¹ ESC's 2004 model input price Including lamp and PE cell

² The CF42 and MV80 are basically the same luminaire so cost should not exceed \$85.65 representing the ESCV Paper's \$131.50 (CF42) less \$45.85 (ballast).

³ Our claim for a lower MV80 luminaire charge is supported by United Energy's \$111.62 for 2011

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- DNSP's are claiming they are funding replacement lights – yet they are not (refer Capital Cost below)

We submit to the AER that due to the potential "material error" (capex) and "material deficiency" (as per above) that the AER considers a process of simply increasing 2010 OMR charges in line with the prior ESCV determination pending the resolution of these issues.

We understand that the AER can consider this process under NER clause 6.11.3.

Alternatively, having identified a "material error" and potential "material deficiency" we submit to the AER that if it decides to make a determination then it would be appropriate for the AER to undertake the revocation and substitution of the distribution determination (as applied to public lighting).

We understand that the AER can undertake this process under NER clause 6.13.

Once resolved, the basis for the OMR charges as proposed for the 2011-15 period will be significantly changed resulting in a potential "material deficiency" in the determination as applied to public lighting.

We are therefore alerting the AER to these significant issues pertaining to the public lighting sector framework and the "material error" and potential "material deficiency" for consideration in the 2011-15 process and in making its Final Decision.

Capital Costs

It is fair and reasonable that councils pay for the replacement cost of the light, poles and brackets in the OMR charge.

The AER has misunderstood the SGC's claims made in our previous Submission⁹ and therefore unfortunately misrepresented our claim in the Paper.

Our issue is not with 'ownership' but the 'capital funding' of lights – a fundamental cost component in the limited building block approach adopted in the AER's modelling.

Clause 2.1 c) of the PLC requires distributors to provide services "in a way which minimises costs to public lighting customers." This Code requirement is not achieved in the distributor's current models as their methodology sees customers paying excessive capex costs as the distributor claims they are funding replacement lights. That is, OMR charges would be significantly less (ie "minimized"⁴) by treating part of the OMR charge as directly funding replacement lights.

This approach would also be consistent with the "1993 Agreement"⁵.

We submit to the AER that for compliance with the "1993 Agreement"⁵ distributors must recognise in their models that councils have been directly funding the replacement cost of lights via the OMR charge and there is no valid requirement for replacement assets to be depreciated

⁴ As required by 2.1 c) of the PLC

⁵ As provided by the SGC to the AER in December 2008

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by distributors as public lighting customers have been paying for replacement lights either as a "prepayment" or "direct payment in the current year".

A discussed in our response to the Paper's clause 19.9.2, a critical flaw in the modelling applied by all Distributor's in their proposals is that the distributors fund the replacement cost – they don't.

Our approach is consistent with the AER's definition of OMR as representing Operation, Maintenance and Repair i.e. "Replacement" is not a DNSP's entitlement.

We submit to the AER the distributor proposals, and in turn the AER's Paper, contain a "material error" regarding the treatment of capital charges for public lighting.

Price Control

The AER has adopted the "Alternative Controlled Distribution Service" classification for OMR for the period, yet has proposed that OMR for new lighting technologies (except T5) are to be treated as "Negotiated Distribution Services".

We submit to the AER that the application of two classifications to the same service (ie OMR) will potentially be problematic in establishing compliant charges as component costs (eg overhead, profit, GIS etc) will need to be split between the two classifications.

In adopting this "split" approach we submit to the AER it will need to consider the impact of both classifications in the distributor's annual alternative control services pricing proposal process.

We also submit to the AER that the classification for all OMR services for future periods be changed to "Negotiated Distribution Services".

Assistance

We trust this Submission will assist the AER to conduct a critical review of the Distributors' proposals and we look forward to providing any additional information required by the AER to assist in this regard.

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2 SUBMISSION OUTLINE

A brief outline of the contents our Submission is stated below.

Section 3: Response. In this section we provide comments regarding specific aspects of the AER's Draft Decision.

To assist the AER we have provided a reference to the clause and/or page number from the AER's Draft Decision (Paper).

Section 4: Component Costs. In this section we refer to a number of high charges included by distributors in their proposals for review by the AER, and identified in our previous submission⁶ but we could not establish from the Paper if distributors have been required to rework their models to reflect these market rates.

Section 5: Framework Issues:. In this section we identify a number of framework issues in the public lighting sector that require resolution before (in our view) compliant charges within the NERs can be established

⁶ Victorian Distributor 2011-15 Regulatory Proposals, SGC, February 2010

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3 RESPONSE

In this section we provide comments regarding specific aspects of the AER's Draft Decision (the Paper).

To assist the AER we have provided a reference to the clause and/or page number from its Paper.

Clause 19.1 (page 773) – Introduction and Background

As proposed in our response to clause 19.9.2 the Victorian DNSP's are not entitled to receive "a return on and return of capital".

We advise the AER that in addition to ratepayers, Public lighting costs are also passed on to the public from charges made on VicRoads.

We support the AER's definition of OMR as representing Operation, Maintenance and Repair i.e. "Replacement" is not a DNSP's entitlement.

Clause 19.3 (page 774) – AER Framework and Approach

The framework requires a "CPI-X" approach to establish price path for services. Whilst the Paper considered "X" in chapter 20, it appears that the AER has considered "X" as zero for public lighting yet this has not been discussed or confirmed in considering public lighting in Chapter 19.

As discussed in our response to clause 19.9.2, any capex on public lighting is funded by public lighting customers and not distributors. As capex is a fundamental and critical component of the limited building block approach we submit to the AER that this is an anomaly that must be addressed by the AER in arriving at its Final Determination.

Whilst distributors may own public lights that have been vested to them by public lighting customers, and therefore acquire obligations under the Public Lighting Code, as correctly identified by the AER, the issue remains how the treatment of funding of assets (capex) is considered by the AER.

As discussed in section 5 of this Submission, the Public Lighting Code requires review to enable the effective development of the public lighting sector and to clarify issue identified by the SGC and the AER.

Clause 19.4 (page 775) – Summary of DNSP Proposals

We support the approach of establishing tariffs differentiated by the:

- Type of public lighting, and the
- Wattage of the lighting

However, as discussed in section 5 of this Submission, we submit that the Victorian public lighting sector is significantly disadvantaged and complex because there is not a tiered segmentation of tariffs as exists in all other NEM jurisdictions and submit to the AER that it is critical that this anomaly is effectively addressed in establishing 2011-15 tariffs.

We note that several distributors have changed their models yet these revised models have not been provided for scrutiny.

Clause 19.4.2 (page 780) - PowerCor

Powercor has allowed for public lighting customers paying for the written down value (WDV) of MV80 luminaires that are replaced with T5 luminaires.

There are several flaws in the general 'requirement' to pay for any WDV as:

- Distributors have not funded capex (refer our response to clause 19.9.2), and
- Irrespective of the above claim, the distributor may not have spent any capital on the light e.g. the light had been vested to the distributor. The AER should therefore require any WDV claimed by the distributor to be supported by evidence that the distributor has actually funded the capex for the light.

Clause 19.4.3 (page 782) - Jemena

Importantly, Public lighting customers and not distributors will determine how many T5 lights will be installed and when the changes will take place.

Jemena have included a capex allowance in the OMR for T5 yet the number of T5's to be installed has not (to our knowledge) been established. Our claim is supported by a survey from SGC member councils.

Clause 19.5 (page 791 – Summary of Submissions)

The SGC support the MAV's view that other light types, including CFL, are likely to be required to be installed by public lighting customers in the next regulatory period.

We recognise and appreciate the AER's efforts in reviewing the items contained in our February 2010 Submission.

This issues raised in this section have been discussed in other areas of the AER's Paper and we have provided our response in that area.

Clause 19.7 (page 794) – 10% Buffer Removal

The SGC support the AER's removal of the 10% "buffer" from its 2011-15 model.

Clause 19.7.1 (page 794) – Labour Rates

The SGC support Impaq's allocation of overheads across both normal hours and out of hours operations.

The SGC support an allocation of profit at 3% for the reasons outlined by Impaq.

We support and commend the AER's attempts to establish labour rates to enable consistent with the 2011-15 regulatory requirements.

We support the AER being persuaded by Impaq's recommendations (refer below) for the reasons stated by the AER.

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Impaq's Recommendations (page 794 of the AER Paper):

Normal hours – between \$50.00 and \$74.00

After hours – between \$55.00 and \$82.00

We however are concerned that the AER has "attached weight to the rates established in the 2009 final decision." being \$71.41 for normal hours and \$82.12 for after hours work and that the AER has ultimately proposed these rates which are at the extreme (top) of the range proposed by Impaq.

We propose that the AER take the opportunity to establish actual costs incurred by the distributor (which the distributor is required to propose) via inspecting actual payslips to employees (direct cost) and then allocating the total margin above direct cost as determined by Impaq in table 19.32.

Clause 19.7.2 (page 803) – Materials Cost Escalation

To meet the requirements of the Public Lighting Code clause 2.1(c), distributors must *"use best endeavours to develop and implement plans to provide OMR in a way which minimises costs to public lighting customers"*.

In our submission of February 2010 (sections **Error! Reference source not found.** and **Error! Reference source not found.**) we identified numerous areas where distributors have submitted costs that do not represent fair costs versus 1) the costs that other distributors pay for the same component, and/or 2) a readily available market price.

Examples include:

- MV80W lamp at \$4.35 in their model when they cost no more than \$1.98.
- PE cells at between \$13.50 to \$18.45 yet they cost no more than \$12.00

We are not aware that the AER in its current Paper has reviewed distributor proposals to reflex these charges – a process which we propose must be undertaken.

The AER has proposed the impact of the purchase price of steel be recognised in the costs escalation. This initiative is welcomed as part of establishing cost reflectivity.

Importantly, when considering any replacement costs, in its modelling, the AER / distributor modelling must reflect replacements based on inventories that are 20 years ago i.e. 1991 for luminaires and 35 years for poles and brackets i.e. 1976.

The AER has noted that distributor public lighting charges are also escalated by CPI. Our understanding is that a CPI-X approach can be applied to public lighting yet we are not aware that "X" has been considered in the AER's Paper and that any reasons have not been provided.

To encourage the development of efficiencies, an approach consistent with Public Lighting Code clause 2.1(c), we propose that the AER should consider "X" for public lighting and require distributors to propose efficiencies they will be considering for the 2011-15 period.

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Clause 19.7.3 (page 804) – Traffic Management Costs

We support the AER’s view that the distributor’s proposed traffic management costs may not be reflective of efficient costs for providing these services and support the AER’s endeavours and analysis to determine cost reflective charges. We however believe that there is no requirement for a separate component charge for traffic management (refer later this section).

The AER referred to the SGC’s submission claiming we “noted that traffic management costs were not an input in the 2004 public lighting model”.

We do not believe the AER has accurately reflected the views in our submission which were as follows⁷:

“SPAusnet, Citipower and Powercor introduced “traffic control charges” totaling around \$1.1 million in 2011.

We request the AER to reject these extra charges as there has not been any change in the requirement of the Road Management Act which was introduced in January 2005 ie prior to the last regulatory period, with its requirements well know at the time of the ESCV’s 2004 model which did not require a separate allowance for “traffic control charges”, that is, it was included in the modeling.’

We are not aware of any material changes to the Traffic Management Act since the ESCV’s 2004 modelling.

We propose to the AER that the hours allocated for services in the 2004 ESC model included allowances for traffic management services and that a separate component charge is therefore not valid and can be excluded by the AER.

In considering table 19.39 we see that the AER has allowed traffic management for T5 lights. As discussed in the AER’s Paper, these lights are currently few in number but with the potential for an increase in inventories in the 2011-15 period. If the costs shown in table 19.39 pertain to these new inventories then our view is they may be treated as capital costs and propose to the AER that the the T5 costs are reconsidered on this basis.

Clause 19.7.4 (page 806) – Other Costs

We do not support the AER’s view that the distributor’s proposed GIS cost of \$100,000 p.a. per distributor can fairly be applied in the 2011-15 regulatory period.

The GIS services were originally included to enable distributors to establish their spatial location of the assets and to provide web based access to public lighting customers over the prior period. This has now been completed by all distributors.

We understand from distributor’s claims in the AER’s Paper that the \$100,000 p.a. GIS charge is primarily required to maintain accurate inventory data and in addition to the spatial location that “the light type, the network connection details and customer details, among others.”

We propose that the AER can consider the following when assessing these claims by distributors:

⁷ Item 4.1.9 page 13 SGC Submission to the AER, February 2010

- The spatial location, type and customer and web based access is now already established. NOTE: The distributors each received \$500,000 in the prior period to cover these costs.
- There is very little change to this data eg the spatial location, type and customer typically do not change year on year, if at all over the life of the light
- The distributors are required to keep this data (except spatial location) to meet their obligations as MP and MDA under the Metrology Rules – and not the Public Lighting Code.
- Distributors receive payment of a NUOS charge for maintaining inventory, light type and customer details. An example is shown in the following table for UED⁸.

United Energy Distribution Commonly Requested Service Charges effective as of 1 January 2010		
Prescribed AMI Metering Charges <160Mwh	Payment Code	Price inc GST
AMI Metering Charges		\$/meter/annum
Single Phase non off peak meter	1PNOP	\$69.21
Single phase off peak meter *	1POP	\$70.65
Three phase direct connected meter	3DCL	\$78.08
Three phase current transformer connector meter	3CTL	\$83.27
Metering Data Services		\$/light/annum
Unmetered Supplies – Public Lighting (Per light)	NUOS	\$1.112

Note: * A single phase off peak accumulation meter but has one logical meter for charging but has two physical single phase meters.

The metering data services for public lighting are services provided exclusively to public lighting customers, such as municipal councils and VicRoads.

- The NUOS charges would provide UED in excess of \$120,000 p.a
- There was no GIS component charge (only the NUOS charge) prior to 2005.

We submit that the GIS component charge must be removed from OMR, or if retained, substantially reduced to a nominal cost for only when the spatial location needs to be changed.

⁸ United Energy Distribution Prescribed and Excluded Service Charges, 1 January 2010

Clause 19.8.2 (page 808)- Transitional Capex Adjustments

We support a reduction to the failure rates proposed by Jemena and UED as both are well above those achieved through good asset maintenance practices. If Jemena and UED are experiencing these rates we expect that they are either 1) using inferior (substandard) components or 2) not conducting the bulk lamp changes within the prescribed 4 year period.

We however propose that a maximum of 15% should be applied across all distributors i.e. an approach consistent with that adopted by the AER for T5 lights. If CitiPower and Powercor have higher failure rates than other distributors, we expect that bulk changes are not being performed within the four year period. We propose that the actual bulk change periods is audited by the AER to ensure a four year maximum.

We also propose the AER investigates the 15% and considers the PE failure component, and adopts the same failure rate for PE cells for both T5 and MV80.

Clause 19.8.3 (page 811) – Forecast Capex

We support the AER's rejection of the capex proposed by the distributors and support the AER's view that the distributors' forecast capex do not represent efficient cost inputs to derive overall capex requirements.

We submit to the AER that in addition to the AER's assessment contained in the Paper that there are potentially several factors contributing to the distributors; (flawed) capex proposals, derived from flaws in the model and application and inputs, including:

- SPAusnet propose replacing 3% of brackets each year. The 3% should be of brackets in place 30 years ago – not based on the current inventory.
- The same logic requires to be applied to luminaires eg the % replaced should be applied to the inventory 20 years ago.
- Some distributors' nominate capex charged for new installation of MV80 lights in their price lists in excess of \$700 (eg \$770 for Powercor) yet new T5 lights (whic here the luminaire costs in excess of \$100 more than an MV80) can be installed for less than \$300!
- The public lighting inventory is well established so there is no reason for "step" jumps in expenditures as proposed by distributors.

To further assess the fairness of proposed distributor capex we would require to have the distributors provide the number of items by type, to be replaced and the cost per item.

IMPORTANT: We have discussed in our response to clause 19.9.2, the OMR tariff must be structured to recognise that it is councils and not distributors, that pay for the capital component of replacement lights through a component in the OMR charge.

Clause 19.9.1 (page 818) - Introduction of new lighting types

CFL and New Technologies

We support the MAV's submission and share their concerns regarding the introduction of alternate technologies (including CFL lights) during the 2011-15 period.

Based on a survey conducted amongst SGC members, and being aware of developments in other states, the CFL or other technologies may be preferred technologies for low energy lights for some councils and as such claim an increasing segment of the market.

As CFL was specifically raised in the AER's Paper, the question becomes is can CFL reasonably be considered a "new technology" as discussed by the AER on page 819?

In this regard we provide the following for the AER's consideration:

- We note from the AER's Paper that Jemena proposed a CFL OMR charge (page 818) and that Citipower and Powercor proposed OMR charges for CFL in the AER's 2009 "Energy Efficient Public Lighting Charges – Victoria" process.
- Another consideration is that CFL lights have a load established for unmetered lighting Metrology for Type 7 metering.

We however recognise that the process being conducted by the AER requires distributor "recognition" and incorporation of light types in to their proposals for consideration by the AER, and if this is not undertaken then the process of establishing charges for these "non included" light types becomes problematic in terms of the regulatory process.

We note from the Paper that the AER has proposed that "non-included" light types (including CFL) be considered under the regulations as a Negotiated Distribution Service.

It is however disappointing that CFLs were not included in the Draft determination despite being approved and on the inventories of several distributors. It has been raised by an SGC member council that Negotiated Distribution Services are a disincentive to introduce these energy efficient lights due to the one sided nature of such negotiations and the lack of realistic alternatives for customers.

Although we have not had the opportunity to review in detail the entire Negotiated Distribution Service process in Victoria we are familiar with the Negotiated Distribution Service process in South Australia and expect that similar regulatory requirements prevail in Victoria and that a Cost Allocation Method and Negotiation Framework have been established for each Distributor and that any Negotiated Distribution Service will be required to be established compliant with these instruments as established under the regulations.

We alert the AER to potential conflicts in establishing regulated charges on this basis.

Based on our understanding of the regulations, we expect having essentially the same service (being OMR) split between Alternative Controlled Distribution Services and Negotiated Distribution Services is potentially problematic for all parties concerned (i.e. the AER, distributors and customers) when it comes to establishing rates fro the service. The problems we see will

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arise in apportioning costs between the Alternative Controlled Distribution Services and Negotiated Distribution Services eg overhead, profit, GIS, call centres etc

Our understanding is that the full cost of these services is being included in the AER's Controlled Distribution Services model yet under Negotiated Distribution Services distributors are entitled to charge for services based on the cost of providing that service.

Without knowing the proportion of allocations between Alternative Controlled Distribution Services and Negotiated Distribution Services a customer will potentially not be able to effectively negotiate with the distributor.

As a potential way forward, we propose to the AER for consideration that any charges established for OMR as Alternative Controlled Distribution Services are reviewed annually and appropriately adjusted to remove the impact of any Negotiated Distribution Services for OMR charged by the distributor.

As identified earlier, the sector is currently undergoing a technology transition, so there is a potential for Negotiated Distribution Service charges to be established for more than CFL lights. There could therefore be a significant adjustment required and workload place on distributors and the AER in maintaining Alternative Controlled Distribution Services charges throughout the 2011-15 regulatory period.

We therefore propose that the AER (re)considers OMR as a Negotiated Distribution Service. We are not aware if the AER can establish OMR as a Negotiated Distribution Service for the current period, but if not then we propose that OMR is established as a Negotiated Distribution Service for the next period.

New Lights

We support the AER's view that the current Public Lighting Code (PLC) enables provision of new public lighting, and the alteration and relocation by others and as such is a Negotiated Distribution Service.

Vesting

The AER's Paper commented on "new public lighting assets" and that under "Victorian arrangements", these assets are (usually) vested to the distributor.

We advise the AER that distributors have been "requiring" that new public lights are vested to them otherwise more costly arrangements for connection were required by the distributor.

In our previous Submission⁹ on the AER we advised we had concerns regarding this type of "requiring" or "forcing" under "Victorian arrangements" in terms of Part IV of the Trade Practices Act 1974 (the Act) , particularly sections 45, 46 and 47.

As the AER's Paper was unfortunately silent on these concerns regarding this vesting "requirement" (by distributors), we are again raising our concerns to the AER for consideration.

Further comments on the impact of "vesting" are included in section 5.

⁹ Victorian Distributor 2011-15 Regulatory Proposals, SGC, February 2010

Clause 19.9.2 (page 819) – Ownership of Public Lighting Assets

It appears the AER has misunderstood the SGC's claims made in our previous Submission⁹ and therefore, unfortunately, misrepresented our claim in its Paper.

Our issue is not with 'ownership' but the 'capital funding' of lights – a fundamental cost component in the limited building block approach adopted in the AER's modelling to establish Alternative Controlled Distribution Service OMR charges.

To remove any doubt, the SGC advises the AER that we recognise the AER has no role in determining the ownership of assets vested at the time of privatisation.

In its Paper the AER referred to a 1993 letter from the former State Electricity Commission Victoria (SECV) which states:

"At present the public lighting tariff includes a component to recover the capital cost of public lighting assets, which are primarily financed by the SECV. As from the (sic) 1 May all new works associated with the provision of public lighting capital works will be 100% customer financed..."

As a result of the above, from 1 May 1993, councils, VicRoads and others (and not distributors) have financed all new public lighting capital works.

Unfortunately the AER has not considered that from that date the SECV's tariff charges were:

- reduced to reflect removing the capital component from the tariff, and
- applied to all lanterns on current offer irrespective of the date they were installed.

In its 2004 Review, inconsistent and outside of the arrangements with the SECV, the ESCV reintroduced a capital component to the OMR charge.

By treating the cost of replacement lights, poles and brackets as being funded by distributors and not by councils, the ESCV built in an automatic annual increase¹⁰ that will see OMR charges increase to \$86.90 (i.e. more than trebling from \$26.69) by 2035 without any consideration of CPI movements and for no changes in the services being received by councils.

Based on the total public lighting inventory of around 450,000 lights, public lighting customers would be paying around \$25 million p.a. extra under the ESC's 2004 Annual Review Process methodology.

Unfortunately the ESCV's approach has been largely adopted by the distributors in their modelling of OMR charges.

We submit that the current modelling adopted by distributors (and reflected in the AER's Paper) for determining the replacement costs component in the OMR is critically flawed as it assumes distributors fund the replacement lights.

¹⁰ Final Decision August 2004 Essential Services Commission Sections 4.3.1, 4.3.2 and 4.3.3

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We submit that the OMR tariff must be structured to recognise that it is councils, and not distributors, that pay for the capital costs of replacement lights through a component in the OMR charge.

Clause 19.9.3 (page 820) – Contestability of Public Lighting

In general terms, we support the views made regarding contestability made in the AER's Paper but take this opportunity to provide the following for consideration by the AER:

- As we have discussed in section 5, the PLC only applying to distributor owned assets is preventing the effective development of the market and we propose a review of the PLC.
- We agree and support the AER's understanding that the replacement, relocation and alteration of existing assets and the installation of new public lighting assets are contestable under clause 4.4 of the Code.

Clause 19.9.4 (page 822) – Compliance with price control mechanism

In Clause 19.9.3 the AER recognized that the replacement, relocation and alteration of existing assets and the installation of new public lighting assets are contestable and that such services are classified as negotiated services and would therefore be subject to the AER's negotiating criteria and the relevant DNSP's negotiating framework.

We agree with the AER's understanding but advise that by establishing OMR as an Alternative Controlled Distribution Service the distributors are required to propose component costs for the modeling based on their assessment of costs for the 2011-15 period.

We submit to the AER that the distributors have no visibility as to what costs they may incur as they have no visibility as to what replacement, relocation and alteration of existing assets may be undertaken by public lighting customers in the 2011-15 period.

As discussed in our response to clause 19.9.1, a similar cost allocation issue applies to CFL lights and other technologies.

We submit to the AER that having public lighting OMR split between Alternative Controlled Distribution Services and Negotiated Distribution Services is potentially problematic for distributors, customers and the AER in establishing charges.

The SGC would welcome the AER's views on how this "clash" can best be managed.

Clause 19.10 (page 823) – AER Conclusion

We support the AER rejection the Victorian DNSPs' proposed public lighting OMR charges on the basis that the opex and capex inputs do not reflect the efficient costs of providing public lighting services over the forthcoming regulatory control period.

Other

We have provided additional responses to Component Costs (section 4) and also to Framework Issues (section 5).

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4 COMPONENT COSTS

In section 4 of our previous submission¹¹ we identified a number of high charges included by distributors in their proposals for review by the AER.

We could not establish from the Paper if distributors have been required to rework their models to reflect these market rates.

Key points from Section 4 of our previous submission follow.

In establishing OMR charges it is not fair and reasonable that customers should pay more simply because the distributor is ineffective in sourcing appropriate prices from the market. It is certainly not consistent with the PLC's requirement to minimise the cost to the customer.

To enable the AER to assess appropriate costs, we have sourced prices for common components based on very modest order amounts and must therefore be considered as the upper bounds of a fair cost as distributors will be purchasing in far greater quantities.

MV80 Luminaire

Distributors all adopted the ESC's 2004 model input price of \$158.55 for an MV80 luminaire¹² whereas a fair and reasonable cost should not exceed \$85.65.

The CF42 and MV80 are basically the same luminaire but with different lamp cost and \$45.85 for the ballast for the CF42 which does not apply to the MV80 luminaire. We submit on this basis, the MV80 luminaire should not exceed \$85.65 representing the ESCV Paper's \$131.50¹³ (CF42) less \$45.85 (ballast).

Supporting our claim for a lower MV80 component charge is that United Energy adopted \$111.62 for 2011.

Lamps

Distributors all adopted the ESC's 2004 model input price of \$4.57 for an MV80 lamp yet the current market price is not more than \$1.98.¹⁴

We note that SPAusnet has a price of \$38 for the 250 HPS yet all other distributors have \$33.21 and that a current market price is not more than \$16.00¹⁴ for a minimum order of 200 with a 14 day delivery time in to the distributor's store, Melbourne.

All distributors have adopted \$33.05 for a 150W HPS lamp yet the current market price is not more than \$28.00¹⁴ for a minimum order of 20 with a 5 day delivery time in to the distributor's store, Melbourne.

¹¹ Victorian Distributor 2011-15 Regulatory Proposals, SGC, February 2010

¹² Including lamp and PE cell

¹³ SGC submission on Energy Efficient Lights 2008, Table 3.6

¹⁴ Industry Sources

PE Cells

Distributors all adopted the ESC's 2004 model input price of \$18.45 for a PE cell for an MV80 luminaire and \$13.50¹⁵ for T5 14W.

We submit that the cost of a PE cell in the distributor modelling should be reduced to no more than \$13.50, yet the current market price is not more than \$11.00¹⁴ for a minimum order of 1,000 with a 5 day delivery time in to the distributor's store, Melbourne.

Component Costs – Individual

Due to time constraints we have not been able to assess each distributor but have noted the following:

United Energy

It appears that UE have increased their calls from 2,400 in 2010 to 5,000 in 2011 and beyond. This change requires investigation. Further, if the number of calls increased then the \$ rate/call should be decreasing as the overheads would remain the same.

United also claims that 37.7% of lamps fail between bulk changes. This is more than 200% above industry standard and well in excess of the ESCV's 15%. If this is occurring then question's need to be asked about United's maintenance practices and the type of components being used.

SPAusnet

We note that SPA has introduced a living away from home allowance yet rural and remote services already attract a surcharge.

¹⁵ Except for SPAusnet at \$18.95

5 FRAMEWORK ISSUES

Recognizing the AER is an economic regulator that establishes charges, we submit to the AER that there are a number of framework issues in the public lighting sector that require resolution before compliant charges within the NERs can be established

We have supporting material for each of these issues and would welcome the opportunity to provide the information to the AER at an appropriate time in their process.

We trust this Submission will assist the AER to understand and accept that the current public lighting framework and the service and charging regime based on that framework are both sadly in need of review.

Whilst there is a number of issues, as they have been clearly identified, in all cases the remedy is known.

Rectification should be straight forward and able to be included in the AER's current process.

The current framework issues we have identified include:

- As we identified in our response to clause 19.9.2, the distributor proposals and modeling contain a "material error" regarding the treatment of capital charges for public lighting.
- Unlike all other jurisdictions, a tiered pricing structure has not been introduced in Victoria. A tiered pricing structure enables effective recognition of capital financing and removes the concern regarding Part IV of the Trade Practices Act 1974 (the Act) , particularly sections 45, 46 and 47.

NOTE: Energy efficient lights have a separate Replacement "R" component. The same should be applied to all lights types.

As part of the determination process we request the AER considers the Act in terms of the practices in other NEM states (in terms of tiered pricing for public lighting), and compares to the current practice in Victoria in which:

- DNSP's deny customers the lower cost unmetered supply option if the assets (paid for by the customer) are not vested to the DNSP.
- The DNSP then claims that only the DNSP can perform maintenance and replacement services on "their" lights – thereby holding the customer "captive".

NOTE:

- 1) We submit that it is not fair and reasonable for councils/others to fund new lighting installations and then be forced to vest the asset to the distributors and then be held to "capture" by distributors for maintenance and then pay asset charges on replacement.
- 2) The current process requires critical review in terms of the practice and the DNSP's monopoly position. There is no physical reason why any vesting should occur as ownership is irrelevant to the physical supply.

- The Public Lighting Code (PLC) requires a complete and critical review. The SGC (and others) have requested a critical review of the PLC but this had not been undertaken by the ESCV as yet. The PLC has been used to establish service requirements in the current determination process.
- Replacement of lighting is incorrectly included in OMR charges. It is required to be a separate charge under section 4.1 of the PLC.
- DNSP's are claiming a cost of residual life for any early retirement of MV80 lights – even though DNSPs have not invested in these lights?

Attachment A – List of Streetlight Group Councils

ALPINE SHIRE COUNCIL
BASS COAST SHIRE COUNCIL
BAW BAW SHIRE COUNCIL
BAYSIDE CITY COUNCIL
BOROONDARA CITY COUNCIL
BRIMBANK CITY COUNCIL
EAST GIPPSLAND SHIRE COUNCIL
FRANKSTON CITY COUNCIL
GREATER DANDENONG CITY COUNCIL
GREATER GEELONG CITY COUNCIL
HEPBURN SHIRE COUNCIL
HOBSONS BAY CITY COUNCIL
KINGSTON CITY COUNCIL
LATROBE CITY COUNCIL
MANNINGHAM CITY COUNCIL
MAROONDAH CITY COUNCIL
MONASH CITY COUNCIL
MOORABOOL SHIRE COUNCIL
MORNINGTON PENINSULA SHIRE COUNCIL
NILLUMBIK SHIRE COUNCIL
PORT PHILLIP CITY COUNCIL
SOUTH GIPPSLAND SHIRE COUNCIL
STRATHBOGIE SHIRE COUNCIL
WANGARATTA RURAL CITY COUNCIL
WELLINGTON SHIRE COUNCIL
WHITTLESEA CITY COUNCIL
WODONGA RURAL CITY COUNCIL
YARRA RANGES SHIRE COUNCIL