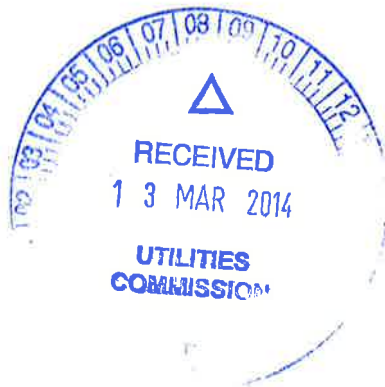


11 March 2014

Dr Pat Walsh
Utilities Commission
GPO Box 915
Darwin NT 0801



Dear Sir

2014-19 NETWORK PRICE DETERMINATION

The Local Government Association of the Northern Territory ('the Association') welcomes the opportunity to make a submission on the 2014 – 19 Network Price Determination advertised in the *NT News* on 18 January 2014 by the Utilities Commission of the Northern Territory ('the Commission').

The Association was first incorporated in 1992 as a peak body representing local government in the Northern Territory. The Association is established as an incorporated body under section 242 of the *Local Government Act* of the Northern Territory.

The Association and member councils are working through the complexities surrounding the unbundling of street lighting charges both in terms of the regulatory processes and the legislative framework for setting tariffs and charges. The Association has had initial discussions and negotiation is with the Power and Water Corporation (PWC) on these matters.

The Association would like to submit to the Commission, two issues for consideration namely:

1. the proposed network charges for street lighting and
2. the service classifications for street lighting in terms of its operations and maintenance and repairs (OMR).

Network Charges

In section 15.3¹ of PWC's revised proposal, PWC propose the following:

"In order to improve the alignment of these tariffs with their costs of supply, Commercial kilo-volt amperes (kVA) will be increased by 1.0 per cent per annum. Unmetered supplies decreased by 3.0 per cent per annum, and Commercial increased by 0.7 per cent per annum."

¹ Page 85, 4th dot point, 3rd sentence

PWC then further proposes:

"The rebalancing of tariffs is also proposed to take place from 2015-19, to further improve their cost reflectivity."

We also note from page 5 of PWC's Draft Pricing Proposal ("Proposal") that *"The street light tariff is significantly over recovering and the traffic light tariff is significantly under recovering revenue."*²

We support PWC's proposed introduction of *"separate tariffs for Street Lighting (and similar night only supplies) and Traffic Lighting (and similar constant load supplies), to improve cost reflectivity."*²

On page 9 of its Proposal, PWC claim its proposed tariff changes are to *"improve the cost reflectivity of the tariffs concerned"* and to *"improve equity between customers"*. Even recognising PWC's desire to phase in tariff changes to reduce "price shock" we do not believe PWC has effectively considered unmetered public lighting tariffs. We believe PWC will continue to significantly over-recover on costs as well as introduce 'price shocks'.

From PWC's Table 2 we note streetlights contribute 0.8% towards PWC's total cost allocation, including 0.2% "coincident kilo watts", yet from PWC's Figure 12 from page 39 we note that the peak demand on the network is between 1300 and 1700 hours during the wet season. As street lights operate from dusk to dawn they are not operating during the peak demand period – so we believe the 0.2% "coincident kilo watts" impact attributable to street lighting by PWC should be removed.

From Table 3 we note PWC's allocated costs (by adopting 0.8%) is \$1.591 million p.a, yet PWC proposes a 2014/15 tariff recovery of \$2.389 million p.a from street lighting. This ultimately results in PWC proposing an increase in street lighting tariffs of 51.4% in Table 17 from 5.536 c/kWh to 8.38 cents/kilo watt hour.

We submit that PWC's proposed increase to street lighting tariffs:

- appears totally inconsistent with its own arguments
- fails to address its "significant over-recovery of costs" that it would achieve
- would introduce a 'price shock' of around 50% or \$0.8 million per annum to councils
- does not represent cost reflectivity and
- introduces inequity between customers.

The Association submits that the Commission should;

- accept proposed establishment of a separate unmetered public street lighting tariff
- require this tariff to be reflective, and no more than 0.8% that is \$1.591 million per annum
- require PWC to establish a truly cost reflective network charge for unmetered street lighting which:
 - recognises its unique characteristics in that it does not contribute to the peak demand on the network
 - is predominately off peak, and

² PWC Draft Pricing Principles Statement and Pricing Proposal, January 2014.

- has a flat load when in operation.

The Association contends this is a fair and reasonable cost allocation which results in no more than 0.6% of PWC's revenues.

Service Classifications

The UC advised that a transition towards adopting aspects of the National Electricity Rules, (the Rules) either in full or in part, is under consideration.

Whilst the Rules do not apply in the 2014-19 period, we submit it is prudent that any considerations of, or reference to, the Rules, including terminology, by the Commission pertaining to the 2014-19 period is appropriate for the services being considered, including street light services.

The Association considers street light services are about annual repairs and maintenance and annual capital charges that PWC wish to charge.

We note the UC in its Draft Determination³ has considered adopting the "classification" for street lighting services as a "Direct Controlled - Alternative Controlled Distribution Service", including:

1. *"Excluded network access services which do not lend themselves to being regulated by the price control mechanism for regulated network access services and, in the opinion of the Commission, are not subject to effective competition (equivalent to Australian Electrical Regulator (AER) classification of alternative control services)*
 - d. *Provision, construction and maintenance of street lighting assets not owned by the network service provider;*
 - e. *Other fee-based services;*
 - i. *Street light services"*

In establishing any classification of services, the Rules provide the following:

6.2.1 Classification of distribution services

- (a) *The AER may classify a distribution service to be provided by a Distribution Network Service Provider as:*
 - (1) *a direct control service; or*
 - (2) *a negotiated distribution service.*
- (b) *The AER may group distribution services together for the purpose of classification and, if it does so, a single classification made for the group applies to each service comprised in the group as if it had been separately classified.*
- (c) *The AER **must**, in classifying a distribution service or distribution services, have regard to:*
 - (1) *the form of regulation factors; and*
 - (2) *the form of regulation (if any) previously applicable to the relevant service or services and, in particular, any previous classification under*

³ Utilities Commission, 2014-2019 NETWORK PRICE DETERMINATION, Draft DETERMINATION, December 2013, Appendix A

the present system of classification or under the previous regulatory system (as the case requires); and

- (3) the desirability of consistency in the form of regulation for similar services (both within and beyond the relevant jurisdiction); and*
- (4) any other relevant factor.*
- (d) In classifying distribution services that have previously been subject to regulation under the present or earlier legislation, the AER must act on the basis that, unless a different classification is clearly more appropriate:*
 - (1) there should be no departure from a previous classification (if the services have been previously classified); and*
 - (2) if there has been no previous classification – the classification should be consistent with the previously applicable regulatory approach.”*

Pursuant to the highlighted points from 6.2.1 of the Rules we submit that “Negotiated Distribution Service” is the appropriate classification for street lighting services under the Rules.

To support our claim we direct the Commission to clause 6.2.1 (d) of the Rules and the current regulatory requirements provided by clause 72 of Electricity Network (Third Party Access) Code:

- “(3) Excluded network access services which, in the regulator’s opinion, do not lend themselves to being regulated by the price control mechanisms set out in Chapters 6 and 7 relate to services:*
 - (a) the supply of which, in the assessment of the regulator, is not subject to effective competition; and*
 - (b) the cost of which, in the assessment of the regulator, cannot be satisfactorily included in the cost base (including all asset-related costs) used for the purpose of calculating the revenue or price cap applying to regulated network access services.*
- (4) The network provider should provide any excluded network access services of the type identified in subclause (3) to network users on **fair and reasonable terms**.*
- (5) The regulator is to determine what may constitute fair and reasonable terms for the purposes of subclause (4) if the network provider and affected network users are unable to reach agreement on such terms.”*

From sub clause (5) it is clear that the network provider and the customer must agree, that is negotiate, fair and reasonable terms, which include services and price. Classification of street lighting services as a “Negotiated Distribution Service” also:

- provides customers with the opportunity to continue this process, and negotiate both service and price, and (in our view)
- is consistent with the current requirement of clause 72, including 72(5) to seek agreement on terms for street lighting services, including OMR charges.

We further submit to the Commission that the PWC and consumers are both utilising the existing clause 72 of the Code and engaging in negotiations regarding street light services and

that pursuant to 6.2.1, classification of the services as a "Negotiated Distribution Service" is therefore appropriate, if not a requirement of the Rules.

Finally, unlike the "Alternative Controlled Distribution Service" classification, adoption of the "Negotiated Distribution Service" classification for street lighting services also allows flexibility of both service provision and price, a critical consideration due to the increasing changes in technology and related services increasingly becoming available to customers.

The Association requests the Commission gives these matters a fair hearing and looks forward to its response.

Yours sincerely



Tony Tapsell

Chief Executive Officer

