



**South Australian Council of Social Service (SACOSS)
Submission on the *Water Industry Act***

December 2009

South Australian Council of Social Service (SACOSS) Submission on the Water Industry Act
December 2009

ISBN 978-0-908293-73-5

First published in December 2009 by the
South Australian Council of Social Service

47 King William Road
Unley, SA, 5061 Australia
Ph (08) 8305 4222
Fax (08) 8272 9500
Email: sacoss@sacoss.org.au
Website: www.sacoss.org.au

Written by Lucas de Boer and Tom Stead, South Australian Council of Social Service.

© South Australian Council of Social Service, 2009

This publication is copyright. Apart from fair dealing for the purpose of private study, research, criticism or review, as permitted under the Copyright Act, no part may be reproduced by any process without written permission. Enquiries should be addressed to the Communications Officer, South Australian Council of Social Service.

Scope of Interest

SACOSS is the peak body for social services in South Australia, and is an independent non-government organisation with a proud sixty-year history of advocating for disadvantaged and vulnerable South Australians. SACOSS is a not-for-profit independent organisation whose members represent a wide range of interests in social welfare, health and community services. SACOSS is part of a national network assisting low income and disadvantaged people, and shares with its members the vision of *justice, opportunity and shared wealth for all South Australians*.

In its role as a peak body for community services in South Australia SACOSS covers a broad range of policy areas including the impacts of disadvantage on the most vulnerable South Australians. In recent years SACOSS has led or participated in debate and advocacy in the areas of consumer credit, electricity and gas, telecommunications, financial counselling, payday lenders, food security, gambling and water.

SACOSS welcomes the opportunity to provide a submission regarding the proposed *Water Industry Act*. The SACOSS submission is based upon the needs of low income and vulnerable consumers in South Australia in relation to access to water for health and wellbeing, and SACOSS' fundamental policy that all South Australians, regardless of income, should have access to a basic level of water which meets all of their essential needs.

Executive Summary

This submission has been prepared with reference to the Office for Water Security's *Water Industry Act* Discussion Paper, with a particular focus on those questions covering the potential impact on low-income households – questions 3.2, 3.3 and 3.4.

SACOSS holds that all South Australians, regardless of income, should have affordable access to a basic level of water which meets all of their essential needs. This is essential given the strong links between good quality water, poverty and poor health outcomes for the vulnerable and disadvantaged.

In line with this, SACOSS provides the following recommendations regarding the proposed *Water Industry Act*:

Recommendation 1

That the primary driver of the Water Industry Act be to guarantee all South Australians affordable access to the basic level of water service required for a healthy life, regardless of income.

Recommendation 2

That the Water Industry Act appoint the Essential Services Commission of South Australia (ESCOSA) to act as the independent economic regulator for water services in SA, including granting ESCOSA the power to set water prices independently of the state government.

Recommendation 3

That the Water Industry Act incorporate an obligation for ESCOSA to recommend price structures and levels only after extensive, transparent public consultation.

Recommendation 4

That ESCOSA's existing Customer Advisory Committee be expanded to include water issues, and that the current membership also be expanded, to include greater representation from the health and community services sector.

Recommendation 5

That Action Item 73 in the Discussion Paper be reworded to read:

73. Request the independent regulator, in the medium term, to examine price structures that may benefit economic efficiency and water security, without further disadvantaging low income consumers.

Recommendation 6

That the duties of the current Energy Industry Ombudsman (EIOSA) be expanded to include responsibility for water-related disputes and complaints, and that the resources of EIOSA be expanded accordingly.

Contents

Scope of Interest.....	i
Executive Summary	ii
Contents.....	iii
Acronyms.....	iv
Water as an essential service.....	1
Role and functions of ESCOSA.....	1
Equitable pricing.....	2
Complaint-handling procedures	4
Summary and Key Recommendations.....	5
References	6

Acronyms

ABS	Australian Bureau of Statistics
CAAC	Customer Advocacy and Advisory Council (proposed)
CAC	Customer Advisory Committee (current)
CPI	Consumer Price Index
EIOSA	Energy Industry Ombudsman (SA)
ESCOSA	Essential Services Commission of SA
kL	kilolitre – thousand litres (water consumption)
SACOSS	South Australian Council of Social Service
TEC	Total Environment Centre
UNESCR	United Nations Committee on Economic, Social and Cultural Rights

Water as an essential service

In 2002, the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR) recognised the right to water as an independent human right, declaring that access to sufficient safe, accessible and affordable water for personal and domestic use is 'clearly...essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival' (World Health Organisation, 2003, p. 8).

While in the broader sense water is viewed as a human right, in the South Australian context it should be viewed as a critical service. All households and individuals require water along with energy (electricity and gas services) in order to maintain acceptable levels of health and wellbeing. SACOSS argues that the importance of water exceeds that of energy, and hence should be viewed as 'critical' rather than 'essential' and thus requires a more interventionist approach to regulation and pricing to ensure that all South Australians enjoy affordable access.

In the context of the current review process, the critical nature of water supply means that it is vital to ensure that changes to the *Water Industry Act* should actually seek to enhance reasonable access for low income or otherwise disadvantaged South Australians. SACOSS believes that by implementing some of the changes outlined in the Discussion Paper and by further analysis of the effects of pricing tariff frameworks, the South Australian Government can ensure greater equity of access into the future.

Role and functions of ESCOSA

The Essential Services Commission of South Australia does not currently have the power to set water prices. Instead, ESCOSA conducts an annual review of the price-setting process, based on the Transparency Statement issued by the Treasurer. The Transparency Statement is developed following consultation with the Government's Office of Water Security, the Department of Premier and Cabinet, the Department of Water, Land and Biodiversity Conservation, and SA Water (SA Government, 2009).

While this arrangement technically fulfils the South Australian Government's obligations under the National Water Initiative, which 'requires the use of independent bodies to set or review prices, or price setting processes' (Government of South Australia, 2009, p.140-141), it fails to take into account the views of the people who will eventually pay the prices – the public. ESCOSA does call for public submissions, but only *after* they have completed their review of the price-setting process each year, and the prices have already been set and agreed to by the government. There is currently no opportunity for consumers to contribute to this process.

This serious deficiency was highlighted in a 2007 report released by the Total Environment Centre (TEC), an independent, non-profit advocacy group that campaigns on environmental issues in Australia. The report compared South Australian price-setting processes with those of other jurisdictions, and found the South Australian process to be significantly inferior. The report explained that 'the issuing of a Transparency Statement and public review of price-setting processes after the determination of prices obviously weakens the opportunity for the public and stakeholders to influence the pricing process' (TEC, 2007, p. 17).

However, the state government discussion paper regarding the *Water Industry Act* states this current system will be altered should the proposed Act come into effect. Under the proposed framework ESCOSA will act as the 'independent economic regulator for monopoly services in South Australia's water and wastewater industry with the powers to set prices for potable water and wastewater services' (Office for Water Security, 2009, p.16). In other words, ESCOSA will gain the power to set water prices independently of the state government, and in line with its current

functions in setting the retail Standing Contract prices for electricity and gas. SACOSS supports this proposed change in ESCOSA's responsibilities, and trusts that, in keeping with its current regulatory functions, it will ensure a rigorous and transparent process for water regulation.

An emphasis on community engagement and consultation also needs to be carried through into the constituency of ESCOSA's Customer Advocacy and Advisory Council. Currently, ESCOSA convenes a Customer Advisory Committee (CAC) that exists to provide "advice to the Commission in relation to its electricity and gas licensing functions, and provides advice on other matters relating to the electricity or gas supply industries to the extent that such issues and functions impact on consumers" (ESCOSA, 2009). Membership of this CAC comprises a range of organisations, including Business SA, the Energy Industry Ombudsman, the Local Government Association, the Property Council of SA, the SA Council on the Ageing, the SA Farmers Federation, and SACOSS.

In answering question 3.3 from the Water Industry Act discussion paper – what should form the basis of ESCOSA's Customer Advocacy and Advisory Council (CAAC)? – SACOSS believes that unnecessary duplication should be avoided, and the existing CAC should form the basis of the CAAC. Given the similarities between electricity, gas and water regulatory issues – particularly in relation to pricing – SACOSS is of the view that it is unnecessary to convene an entirely different group to deal with water-related consumer issues, and that a targeted expansion of the scope and membership of the current CAC would suffice.

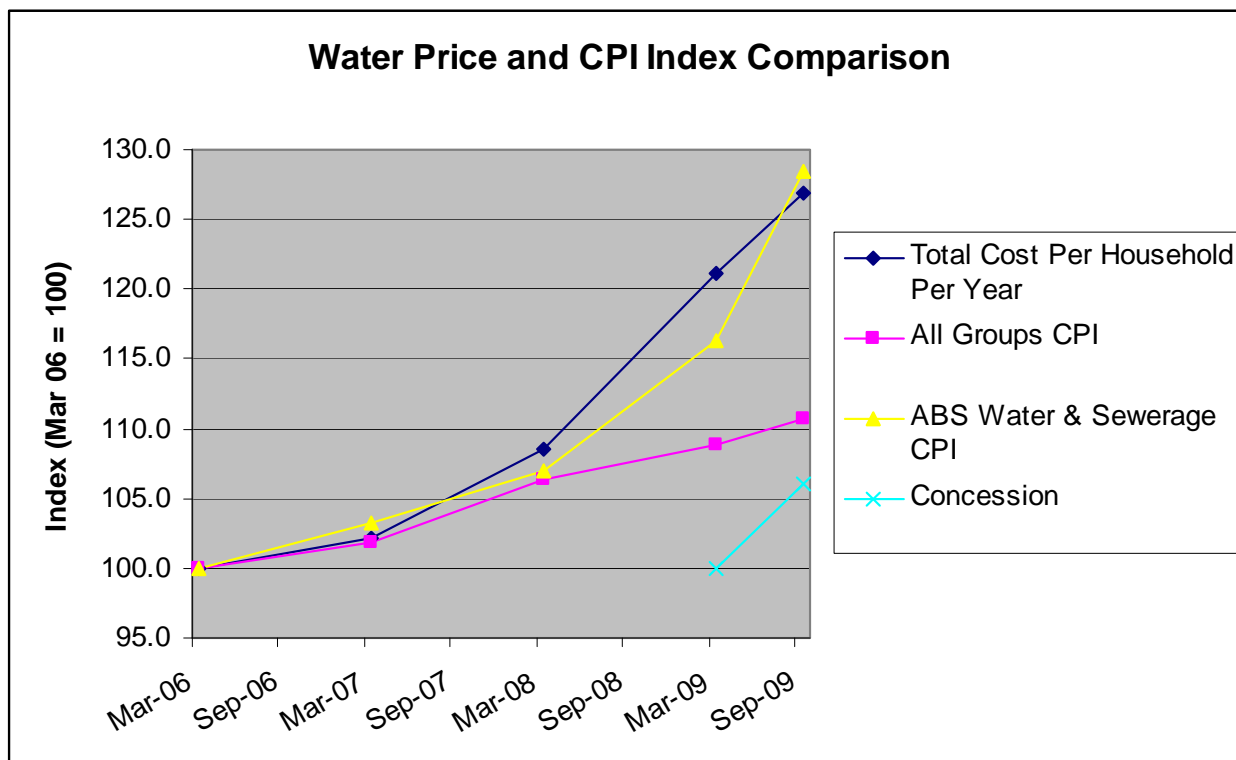
However, given the critical nature of water, SACOSS believes that an increased focus on water issues within the expanded CAC – the new CAAC – should be accompanied by further representation by the health and community services sector. Thus SACOSS suggests that the CAAC be expanded to include, at the very least:

- Organisations dealing with specific client and population groups that represent a wide range of different needs in relation to water.
- Representatives of rural and regional groups and communities.
- An individual or organisation who can represent the interests of rental tenants.

Equitable pricing

In *Water for Good*, the state government asserts that equity between consumers of different income levels can best be delivered through targeted income support measures – in other words, concessions (Government of South Australia, 2009, p.139). SACOSS strongly agrees with the principle that a coherent and equitable concessions system represents a means to providing affordable access to all essential services, although a more progressive and equitable tariff structure has the potential to provide more economical and socially inclusive benefits to South Australians.

In part, the SACOSS view stems from the inadequacy of concessions for all essential services, including water. Recent data presented in SACOSS' *Cost of Living Biannual Update No. 2* (SACOSS, 2009) shows that the cost of the water concession for tenants (valued at a minimum of \$55 per year) has dropped in real terms for a low consumption customer of 120kL. The graph below shows that from March to September 2009, the cost of 120kL per year has risen by 4.7% for a non-concession customer, while for a concession customer, the same period has seen a rise of 6.1% (SACOSS, 2009, pp 18-19).



Based on these findings, SACOSS contends that the state government needs to give a great deal more consideration to the needs of low-income consumers within the framework of the proposed *Water Industry Act*. Specifically, we argue that action item 73 listed in *Water for Good* – that the government ‘Request the independent regulator, in the medium term, to examine price structures that may benefit economic efficiency and water security’ (Government of South Australia, 2009, p.170) – be expanded to give greater emphasis to the needs of low income and disadvantaged South Australians. We would anticipate the action item be adapted to read:

73. Request the independent regulator, in the medium term, to examine price structures that may benefit economic efficiency and water security, without further disadvantaging low-income consumers.

In this way, the government will be able to achieve its stated aims of encouraging careful use of water resources through reforming pricing structures (Government of South Australia, 2009, p.139); low-income households will be protected from unsustainable price rises in the short- to medium-term, while being well-placed to reap the long-term benefits of efficient water pricing and supply mechanisms.

SACOSS intends to work further in the area of pricing tariffs for all essential services, with an emphasis on providing a baseline – or ‘lifeline’ – tariff which ensures that the minimum amount of water required for health and wellbeing is provided at a price affordable for those on low and fixed incomes. This more equitable structure would utilise an inclining block tariff (IBT) framework to send price signals to high-end users to drive efficiency, while ensuring that costs are recovered for service providers. Under SACOSS’ proposed structure, concessions would remain in place to provide an adequate safety net for large households and those with specific needs, who require greater consumption levels. As work on this pricing framework progresses, SACOSS welcomes communication and correspondence with the appropriate government agencies and with ESCOSA.

Complaint-handling procedures

Question 3.4 of the *Water Industry Act* discussion paper asks “Which body should be responsible for handling complaints and resolving disputes between licensed entities and customers?” (Office for Water Security, 2009, p.24). In response, SACOSS recommends that the duties of the current Energy Industry Ombudsman be expanded to include responsibility for water-related disputes and complaints.

The precedent for this expanded role already exists – the current Energy Industry Ombudsman (EIOSA) started as the Electricity Industry Ombudsman (SA) Ltd in 2000, before being broadened to the gas industry in 2003 (EIOSA, 2009). SACOSS expects that this new Essential Services Ombudsman (incorporating electricity, gas and water) would receive an increase in resources commensurate with its increased powers.

Summary and Key Recommendations

Broadly speaking, SACOSS accepts that the state government's proposed amendments to the *Water Industry Act* go some way towards meeting the needs of the South Australian community in terms of transparency and rigour in regulation and complaints handling. However SACOSS does believe that further work is required to ensure equity for vulnerable and disadvantaged communities in terms of access to – and cost of – water.

In light of the views and comments provided above, SACOSS recommends the following:

Recommendation 1

That the primary driver of the Water Industry Act be to guarantee all South Australians affordable access to the basic level of water service required for a healthy life, regardless of income.

Recommendation 2

That the Water Industry Act appoint the Essential Services Commission of South Australia (ESCOSA) to act as the independent economic regulator for water services in SA, including granting ESCOSA the power to set water prices independently of the state government.

Recommendation 3

That the Water Industry Act incorporate an obligation for ESCOSA to recommend price structures and levels only after extensive, transparent public consultation and in keeping with the principle of ensuring no further disadvantage to low income and disadvantaged consumers.

Recommendation 4

That ESCOSA's existing Customer Advisory Committee be expanded to include water issues, and that the current membership also be expanded, to include greater representation from the health and community services sector.

Recommendation 5

That Action Item 73 in the Discussion Paper be reworded to read:

73. Request the independent regulator, in the medium term, to examine price structures that may benefit economic efficiency and water security, without further disadvantaging low income consumers.

Recommendation 6

That the duties of the current Energy Industry Ombudsman (EIOSA) be expanded to include responsibility for water-related disputes and complaints, and that the resources of EIOSA be expanded accordingly.

References

DFC (2009), *Water and sewerage rates*, Department of Families and Communities. Viewed 17 December 2009 at <http://www.dfc.sa.gov.au/pub/tabId/209/itemId/427/moduleId/795/Water-and-sewerage-rates.aspx>

EIOSA (2009), *About us*, Energy Industry Ombudsman of South Australia. Viewed 17 December 2009 at <http://www.eiosa.com.au/about.html>

ESCOSA (2009), *Consultation*, Essential Services Commission of South Australia. Viewed 17 December 2009 at <http://www.escosa.sa.gov.au/about-us/consultation.aspx>

Government of South Australia (2009), *Water for Good: A plan to ensure our water future to 2050*, Government of South Australia, Adelaide.

Office for Water Security (2009), *Water Industry Act Discussion Paper*, Government of South Australia, Adelaide.

SACOSS (2009), *Cost of Living Biannual Update No. 2, December 2009*, South Australian Council of Social Service, Adelaide.

TEC (2007), *Urban water regulation in Australia: A comparison of regulation, pricing and transparency mechanisms in major Australian cities*, Total Environment Centre, Sydney, NSW.

World Health Organisation (2003), *The Right To Water*, WHO Publications, Geneva, Switzerland. Viewed 15 December 2009 at http://www.who.int/water_sanitation_health/rightwater/en/