



**Annual SACOSS Briefing to the Minister for Human Services:
Water Pricing Issues Affecting South Australian Consumers**

June 2020

Background

The South Australian Council of Social Service (SACOSS) is responsible for delivering the Consumer Advocacy and Research Fund (CARF) Program through the Department of Human Services. As part of the Service Agreement, SACOSS is required to provide an annual briefing to the Minister for Human Services (“Minister”) about water pricing issues affecting South Australian consumers. This briefing paper fulfils this requirement.

Executive Summary

The SACOSS 2020 annual briefing on water pricing issues affecting South Australian consumers provides evidence that:

- The outcome of the SA Water regulatory process 2020-24 will result in savings of approximately \$200 per year for the average South Australian household in water bills, representing significant savings for South Australian water consumers. It is expected that this will deliver much needed relief for households in vulnerable circumstances struggling with the increasing costs of living, particularly in the current economic climate.
- Headline savings to South Australian water bills are driven by re-evaluation of SA Water’s Regulatory Asset Base, the removal of the ‘Zero Cost Energy Future’ project, and significantly lower interest rates, as reflected in SA Water’s regulated ‘rate of return’. This will have flow-on impacts on return to owners and thus state revenues, and ultimately the ability of our government to pay for vital services for the wider South Australian community;
- The Ministerial Directions and Pricing Orders applied as part of the SA Water regulatory process 2020-24 may have implications for transparency and the independence of the regulatory process;
- Amendments made to the *Water Retail Code – Major Retailers* have the scope to improve consumer protections for South Australian consumers in vulnerable circumstances, including those living with a disability and tenants;
- Scoping work has identified a number of water-related issues affecting Aboriginal residents living in regional and remote communities in South Australia including cost of living, water supply, governance and billing issues, and water debt and restriction; and
- South Australian consumers living with disability and carers may be missing out on critical COVID-19 support in the form of JobSeeker and subsequently, the Cost of Living Concession supplement.

In light of the above findings, SACOSS recommends that:

- The cost of any activities specified in a subsequent Direction under section 6 during the 2020-24 regulatory period, be subject to an economic assessment by ESCOSA for

prudence and efficiency, to allow for bill-predictability and to avoid SA Water customers paying for unnecessary investment;

- The State Government's policy decisions as expressed in Pricing Orders and Ministerial directions are timed and issued before the SA Water regulatory processes commence so as to specifically address concerns about transparency and independent assessment of regulatory proposals;
- The State Government informs stakeholders of the status of the review of the payment difficulty and hardship provisions in the *Water Industry Act 2012*, including time frames for input and expected finalisation of the review;
- The State Government direct SA Water to adopt a family violence policy similar to that required of Victorian water businesses;
- The State Government conducts a holistic, strategic review regarding the supply, oversight and coordination of water to ensure there is sufficient water infrastructure and equitable access to safe and affordable water for all Aboriginal communities and homelands across the State;
- The State Government investigates whether water and sewerage concessions are being applied to unsubsidised water bills in remote Aboriginal communities and works more broadly with stakeholders to develop an education package in remote communities around concessions schemes and the availability of financial counsellors and hardship supports;
- The State Government works with industry and NGO sector to enable some proactive, positive promotion of support services available to those who struggle with cost of living, including costs of water;
- The State Government introduces a water bill medical concession to cover any medical condition or disability that creates the need for significant extra water use.

SA Water Regulatory Determination 2020 (SAW RD20)

Background

SA Water provides drinking water and sewerage services to approximately 1.7 million South Australians, including approximately 207,000 regional drinking water customers. SA Water's primary role is to source, treat, distribute and sell drinking water and non-drinking water, and to remove, treat and dispose sewage from homes and businesses.

As a monopoly provider of an essential service, wholly owned by the South Australian Government, SA Water's services are highly regulated by a number of different entities.¹ The Essential Services Commission of South Australia (ESCOSA) has responsibility for the economic regulation of the retail services provided by SA Water, pursuant to the *Water Industry Act 2012* (WI Act) and the *Essential Services Commission Act 2002* (ESC Act), the main elements of which are:

- Licensing to provide retail services (and associated conditions including the application of industry codes or rules) under the *Water Industry Act*; and
- Determining the maximum revenues that can be earned by SA Water for the provision of retail services over the regulatory period (2020-24) in accordance with the criteria in the *Essential Services Commission Act*.

In performing its regulatory functions, ESCOSA's primary objective is the protection of the long-term interests of South Australian consumers with respect to price, quality and reliability of essential services.²

SA Water's Regulatory Determination 2020 (SAW RD20) is the third regulatory determination made by ESCOSA and applies to SA Water for the four-year period from 1 July 2020 to 30 June 2024. The determination process commenced in November 2017, and included:³

- 'reviewing, amending and enhancing consumer protections contained in industry codes and rules
- reviewing and resetting the customer service and network reliability service standards with associated performance targets
- making three separate price determinations for drinking water retail services, sewerage retail services and other ('excluded') retail services, and
- reviewing the performance monitoring and reporting framework.'

¹ The water industry is declared to constitute a regulated industry for the purposes of the [Essential Services Commission Act 2002](#),¹ and SA Water is a regulated entity pursuant to section 17 of the *Water Industry Act 2012*¹.

² Section 6(a) of the *Essential Services Commission Act 2002*

³ ESCOSA, SA water Regulatory Determination 2020: statement of reasons, June 2020, p.1 see: <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

The process has been informed by extensive stakeholder engagement, with ESCOSA introducing a new process for SAW RD20 which allowed customers to challenge and scrutinise SA Water's regulatory business proposals through a Negotiation Forum involving SA Water, a Customer Negotiation Committee (CNC) and an Independent Probity Advisor. SACOSS CEO Ross Womersley was part of ESCOSA's CNC which met regularly for around 18 months. ESCOSA has indicated it will commence a full review of the new CNC process later in 2020, in preparation for the fourth SA Water Regulatory Determination in 2024.⁴

During the broader engagement process for this determination, SACOSS provided an extensive briefing to the SA Consumer Experts Panel Meeting in early 2018 which contained a detailed outline of our priorities, as well as four submissions⁵ to ESCOSA on SA Water's proposed revenue and revised consumer protections.

On 11 June 2020, ESCOSA released the Final Regulatory Determination (the Final Determination) for SAW RD20, establishing the maximum revenue that SA Water can recover from its customers for drinking water and sewerage retail services from 1 July 2020 to 30 June 2024.

Key outcomes

The headline outcome of the Final Determination was savings of approximately \$200 per year for the average South Australian household in water bills.

SACOSS welcomes these significant savings for South Australian water consumers, and recognises this will deliver much needed relief for households in vulnerable circumstances struggling with the increasing costs of living, particularly in the current economic climate.

Underpinning this reduction were two key factors:

- Re-evaluation of SA Water's Regulatory Asset Base ('RAB') which values SA Water's drinking assets, from \$7.77 billion to \$7.25 billion, in line with recommendations from the South Australian Water Pricing Inquiry completed in the 2018-19 financial

⁴ ESCOSA, SAW RD20, Final Determination, Statement of Reasons, June 2020, p.9 see:

<https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

⁵ SACOSS, Submission to ESCOSA on SA Water Regulatory Determination 2020-24 – Draft Determination, 15 April 2020 See: <https://www.sacoss.org.au/submissions/energy-water-climate-change>, SACOSS, Submission to ESCOSA on SA Water's 2020-2024 Regulatory Business Proposal: 'Our Plan' 2020, 19 December 2020 see:

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/191220_SACOSS_Submission_SAW_RBP.pdf, SACOSS, Submission on ESCOSA's Consumer Experts Panel Background Briefing: Review of the Water Retail Code - Major Retailers, 30 August 2019 see:

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/190830_SACOSS_Submission_Water%20Retail%20Code%20Review.pdf, SACOSS, Submission to the Essential Services Commission of South Australia on the SA Water Regulatory Determination 2020: Draft Framework and Approach,

https://www.sacoss.org.au/sites/default/files/public/documents/Submissions/Utilities%20Submissions/180131_Submission%20to%20ESCOSA%20on%20SAW%20F%26A.pdf

year,⁶ as well as the removal of the 'Zero Cost Energy Future' assets from the RAB;⁷ and,

- Significantly lower interest rates, as reflected in SA Water's regulated 'rate of return' on its assets which fell from 4.53% in 2016-17 to 2.96% in 2020-21.

In making its final determination, ESCOSA has set the total revenue that SA Water may recover over 2020 - 2024 at:

- \$2,541 million for drinking water
- \$1,215 million for sewerage

This reduces SA Water's drinking water revenues by approximately \$30 million per annum.

Given the reduction in water bills for SA Water customers is largely driven by low rates of return, and a re-valuation of the RAB (as opposed to a reduction in expenditure and operational decisions), it is worth noting there is a substantial risk that water bills may increase in the next regulatory period, should interest rates also increase.

This is particularly so given that despite an overall reduction in revenue (due to the impact of the lower RAB and rate of return), ESCOSA has approved an *increase* of \$362 million in capital expenditure (28 percent) and an increase of \$33 million in operating expenditure (1.7 percent) for 2020-24, compared to the current regulatory period. The increases in capital expenditure will be incorporated into the RAB in future regulatory periods.

The capital expenditure and operating expenditure allowed by ESCOSA is still below that sought by SA Water in its regulatory business proposal ('Our Plan 2020'). ESCOSA found the additional \$471 million in capital expenditure and \$121 million in operating expenditure sought by SA Water were not justified and were 'not consistent with customers' main priority that SA Water's prices are kept as low as possible while at least maintaining current levels of service'.⁸

Key issues

Budgetary impact

While the projected water bill savings will undoubtedly help those on low or lost incomes who struggle to pay for essential services, the final determination by ESCOSA will have implications for South Australians in the long-term.

As a government-owned entity, reductions to SA Water's regulated revenues ultimately lead to a loss of revenue to government – which then needs to make up that loss from additional

⁶ For more info, see: <https://www.treasury.sa.gov.au/south-australia-water-pricing-inquiry>

⁷ ESCOSA, SAW RD20, Final Determination, Statement of Reasons, June 2020, p.236 see: <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

⁸ ESCOSA, SAW RD20, Final Determination, Statement of Reasons, June 2020, p.2 see: <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

or increased taxes, or be forced to cut services. In this sense, ESCOSA’s decision on water regulation is about whether South Australians get returns as water customers (by virtue of cheaper prices) or as taxpayers and consumers of other public services.

As an essential service, water pricing may not be an appropriate way to raise revenue for government. This is particularly the case because water costs are regressive – that is, expenditure on water accounts for a greater proportion of household expenditure for those on lower incomes and it hits poorest households hardest.⁹ However, many state taxes, fees and charges are also regressive – making it a complicated trade-off (although still a better choice than the parallel determinations in the privatised energy market where the choice is between returns to consumers or returns to a narrow group of shareholders). Yet, at a time when government revenue is already disappearing in losses of GST, tax deferrals for economic stimulus or revenue losses due to COVID-19 shutdowns, SACOSS remains wary that savings on water bills may come at a significant cost to State revenues and consequently, potential cuts to hospitals, schools or other vital community services.

This is precisely why SACOSS has long been calling for a thorough review of state taxes to ensure adequate revenue to fund vital services, and maintains those calls here.

Ministerial Directions and Pricing Orders

In the weeks prior to ESCOSA issuing its Final Determination, the Treasurer and the Minister for Environment and Water exercised their powers to issue pricing orders and directions which together operated to significantly impact the amount of SA Water’s allowed revenue for 2020-24. Whilst SACOSS acknowledges SA Water is subject to the direction and control of its Minister, and ESCOSA must comply with pricing orders issued by the Treasurer, SACOSS has concerns about issues of transparency in decision-making and perceived interference in the regulatory process and independence of the regulator.

Background

Section 35(3) of the WI Act requires that ‘in addition to the requirements of section 25(4) of the *Essential Services Commission Act 2002*, the Commission must, in acting under subsection (1), comply with the requirements of any pricing order issued by the Treasurer under this section’.

On 28 October 2019, the Treasurer for the South Australian Government (the Treasurer) issued a Pricing Order¹⁰ pursuant to section 35(4) of the WI Act (the Pricing Order). Clause 5.8.2 of the Pricing Order requires ESCOSA’s final determination must ‘allow SA Water to **recover such costs** that are attributable to activities that SA Water is required to provide in

⁹ SACOSS, SA State Election 2018, Utilities Cost of Living Policies, p.2 see: https://www.sacoss.org.au/sites/default/files/Cost%20of%20Living%20Policies_FINAL.pdf

¹⁰ Treasurer, Pricing Order for Regulatory Period 1 July 2020-30 June 2024 see: https://www.treasury.sa.gov.au/data/assets/pdf_file/0011/41123/Pricing-Order-for-the-Regulatory-Period-1-July-2020-to-30-June-2024.pdf

accordance with a direction under section 6 of the *Public Corporations Act 1993*¹¹ and are either (a) *specified in the relevant direction*, or if not specified, (b) determined by the Commission to be efficient’ (SACOSS’ emphasis).

The Treasurer issued a Second Pricing Order under the WI Act on 25 May 2020¹², requiring the revenue in the Final Determination be **fixed** for the 2020-24 period *subject to* clause 5.8.2 of the first Pricing Order, namely: ‘such costs...that are attributable to activities that SA Water is required to provide in accordance with a direction under section 6 of the *Public Corporations Act 1993*’. The Second Pricing Order also deleted clause 5.7 of the first Pricing Order, and replaced it with a clause that provides the determination must adopt the *NWI Pricing Principles for the Recovery of Capital Expenditure*¹³, *subject to* a reduced RAB and allowing ‘SA Water to recover the efficient costs of assets acquired (or to be acquired) after 1 July 2016 which are required to support activities that SA Water is required to provide in accordance with a direction under section 6 of the *Public Corporations Act 1993*.’

Therefore, the allowed revenue that can be recovered from SA Water customers during the 2020-24 regulatory period may *increase* on the basis of a ‘**a new or further direction** issued by the Minister for Environment and Water,¹⁴ under section 6 of the *Public Corporations Act 1993*. In addition, the Second Pricing Order precludes ESCOSA from making annual updates to the regulatory rate of return, and also precludes it from including revenues for contingent projects within the 2020-24 regulatory period, which were both proposed in the Draft Determination.

This then leaves the door open for SA Water to be directed by the Minister for Environment and Water to undertake subsequent capital projects during the next four years, paid for by SA Water customers, and unscrutinised by ESCOSA for prudence and efficiency (as is required by the WI Act and *Essential Services Commission Act*).

On 28 May 2020, a couple of weeks prior to the publication of ESCOSA’s Final Determination on 11 June 2020, the Minister for Environment and Water issued SA Water with a Ministerial Direction¹⁵ pursuant to section 6 of the *Public Corporations Act 1993*, to

¹¹ Public Corporations Act 1993

<https://www.legislation.sa.gov.au/LZ/C/A/PUBLIC%20CORPORATIONS%20ACT%201993/CURRENT/1993.36.AUTH.PDF>

¹² The first Pricing Order was released on 28 October 2019 see clause 5.8.2:

https://www.treasury.sa.gov.au/_data/assets/pdf_file/0011/41123/Pricing-Order-for-the-Regulatory-Period-1-July-2020-to-30-June-2024.pdf, The Second Pricing Order, 25 May 2020 see variation to clause 5.3 of the first Pricing Order as per clause 3.1: https://www.treasury.sa.gov.au/_data/assets/pdf_file/0003/215139/Second-Pricing-Order-for-the-Regulatory-Period-1-July-2020-to-30-June-2024.pdf

¹³ South Australia is a signatory to the Intergovernmental Agreement on a National Water Initiative. The [National Water Initiative Agreement](#) contains pricing principles for the recovery of capital expenditure. (for further information on the National Water Initiative is available at <http://www.agriculture.gov.au/water/policy/nwi11>).

¹⁴ ESCOSA, Final Determination, p.21 see: <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

¹⁵ Direction to SA Water pursuant to section 6 of the Public Corporations Act 1993, <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-DirectionsUnderSection6PublicCorporationsAct1993-GazetteNotice.pdf.aspx?Embed=Y>

purchase or provide a number of specified services, facilities and contributions from 1 July 2020. The Minister's Direction requires SA Water to undertake certain projects (both drinking water and sewerage), and to fund those projects up to a specified amount (both capital expenditure per annum and operating expenditure), see specifically Directions J, K, M and N.¹⁶ Collectively, the capital expenditure for these projects as set out in the Direction amounts to around \$288m over 2020-24.¹⁷ ESCOSA has included this expenditure in SA Water's allowed revenue for 2020-24, to be recovered from SA Water customers, in accordance with the Treasurer's Pricing Order.¹⁸ As noted earlier in this briefing, the \$288m will be incorporated into the RAB for future regulatory periods.

Recommendation

- ***SACOSS recommends the cost of any activities specified in a subsequent Direction under section 6 during the 2020-24 regulatory period, be subject to an economic assessment by ESCOSA for prudence and efficiency in accordance with the Essential Services Commission Act, to allow for bill-predictability and to ensure SA Water customers benefit from competition and efficiency.***

Regulatory process concerns

To be clear, in raising these issues SACOSS is not making any comment on the worth of the projects SA Water has been directed to fund, rather we are attempting to illustrate how the Directions from the Minister, coupled with the Treasurer's Pricing Orders have operated to exclude those projects from the scrutiny provided for by the legislature in the WI Act and the *Essential Services Commission Act*. This scrutiny includes consumer consultation processes and questions of economic efficiency, and SACOSS suggests disregarding these factors has the potential to undermine the primary objective of the regulatory process to 'protect the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services'.¹⁹

It is worth noting ESCOSA's Draft Determination (made in accordance with all relevant statutory factors and objectives and considering all relevant evidence) was not to allow expenditure for two of these projects (Directions J and K) and to allow reduced expenditure for the project the subject of Direction N.²⁰ It is unclear whether ESCOSA considered the \$64.1m Tea Tree Gully Community Wastewater acquisition covered by Direction M.

¹⁶ It is worth noting section 6(2) of the *Public Corporations Act* 1993: 'A direction may not be given by the Minister under this section contrary to the provisions of another Act'.

¹⁷ See summary of 'services, facilities and contributions' contained in the Ministerial Direction on p. 22-24 of ESCOSA's Final Determination SAWRD 2020 <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

¹⁸ ESCOSA, SA Water Regulatory Determination 2020 - Final Determination: Statement of Reasons, June 2020, p.21 and p.133

¹⁹ Section 6(a) of the *Essential Services Commission Act 2002*

²⁰ For the reticulated water mains network management project the draft decision was that \$107.0 million is a prudent and efficient amount to be included in SAW RD20 (see p. 122 of the Draft Determination). For the regional non-potable water supply upgrades the Draft Decision was this should be a matter of government policy and the solution proposed by SA

The decision-making discretion vested in ESCOSA by the WI Act and the *Essential Services Commission Act* is not an open discretion, it is conditional upon the existence of certain factors set out in the *Essential Services Commission Act* being established to the satisfaction of ESCOSA. The decision-making process is a balancing exercise involving questions of judgment and issues of degree. When it comes to the amount of revenue to recover from customers for a certain project, ESCOSA must be satisfied of the facts that are pre-requisite to the exercise of the discretion. Even where expenditure is driven by regulatory obligations, this does not negate ESCOSA's role in determining whether the expenditure associated with that regulatory obligation is prudent and efficient.

SACOSS is deeply concerned the Ministerial Directions coupled with the Pricing Orders may operate to interfere with ESCOSA's decision-making powers and the economic regulatory processes established by the legislature. The Second Reading Speech for the *Water Industry Act* in 1992 The Hon. I.K. Hunter stated:

*'The Bill lays an appropriate legislative foundation for an efficient, competitive and innovative water industry. A key element of this is the introduction of independent economic regulation for the industry, with the appointment of the Essential Services Commission of South Australia (or ESCOSA). Independent economic regulation provides a transparent means of setting service standards and prices. Ultimately this is about protecting the long-term interests of customers and encouraging efficient investment in infrastructure.'*²¹

As outlined earlier, SACOSS considers the effect of the Ministerial Direction and Pricing Orders calls into question the transparency²² independent economic regulation is intended to provide,²³ potentially interferes with the goal of encouraging efficient investment in infrastructure, and thus potentially undermines ESCOSA's primary objective to protect the long-term interests of South Australian consumers (and importantly, consumers in vulnerable circumstances) with respect to the price, quality and reliability of essential services. We reaffirm that SACOSS is not commenting here on the actual initiatives funded, but on matters of process, and in that context we are expressing our disappointment that

Water was partial and at great cost, therefore, the draft decision was to not include the \$37.7 million proposed to upgrade non-potable water supply for 340 properties (see p.130 of the Draft Determination). In relation to the KI de-salination plant ESCOSA found SA Water had not yet provided robust evidence that the future demand is firm and all costs associated with the project were removed and placed on a 'contingent project' list (see p. 132 of the Draft Determination).

<https://www.escosa.sa.gov.au/ArticleDocuments/21462/20200304-Water-SAWRD20-DraftDecision-StatementOfReasons.pdf.aspx?Embed=Y>

²¹ See Hansard: <http://hansardpublic.parliament.sa.gov.au/Pages/HansardResult.aspx#/docid/HANSARD-10-8303>

²² Noting one of the Objects of the *Water Industry Act* (section 3(c)) is '*to provide mechanisms for **the transparent setting of prices within the water industry** and to **facilitate pricing structures that reflect the true value of services** provided by participants in that industry*'.

²³ ESCOSA's **independence** is provided for under Section 7 of the *Essential Services Commission Act*: 'Except as provided under this Act or any other Act, the Commission is not subject to Ministerial direction in the performance of its functions'. (Noting that section 40 of the *Water Industry Act* provides that despite the Commission's independence the Minister for Environment and Water may give Directions to the Commission in relation to a **prescribed matter**. For the purposes of that section, a prescribed matter means any matter relating to water meters or disconnection of a retail service.)

years of customer engagement, negotiation, assessment, analysis and consultation associated with the expenditure proposals in SAWRD 2020 appear to have been negated by the Minister's Directions and the Treasurer's Pricing Orders.

Recommendation

- ***SACOSS recommends the government's policy decisions as expressed in Pricing Orders and Ministerial directions are timed and issued before regulatory processes commences so as to specifically address concerns about transparency and independent assessment of regulatory proposals.***

Zero Cost Energy Future (ZCEF)

As part of its regulatory proposal, SA Water sought a capital expenditure allowance of \$104m²⁴ to fund construction of its Zero Cost Energy Future (ZCEF) Project. ESCOSA determined this project was not a 'retail service' and was therefore an unregulated activity. ESCOSA removed all costs of the program and all expected future operating expenditure savings from the determination. All risks of the program, will accrue to SA Water and its owner, the South Australian Government.

Throughout the engagement process, SACOSS has raised the possibility of leveraging the ZCEF project to create opportunities for SA Water and the State Government to work together with communities on infrastructure projects that would benefit not only SA Water, but potentially the communities in which the projects are situated. For example, SA Water could work with the South Australian Housing Trust to develop a community solar project. SACOSS urges the South Australian Government to meaningfully consider the opportunity presented by the ZCEF project to benefit vulnerable South Australians.

Water Retail Code – Major Retailers

As part of SAW RD2020, ESCOSA undertook a review of the *Water Retail Code – Major Retailers*²⁵ (the Code). As noted by ESCOSA, 'the Code is the principal consumer protection document for SA Water, setting out the behavioural standards and minimum requirements that SA Water must comply with in the sale and supply of water and sewerage retail services',²⁶ and is therefore of significant importance to vulnerable water consumers in South Australia.

²⁴ SA Water, Our Plan 2020, p. 35 see: https://www.sawater.com.au/_data/assets/pdf_file/0018/421056/SA-Water-Our-Plan-2020-24.pdf

²⁵ ESCOSA, Water Retail Code - Major Retailers WRC-MR/03 see: <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-RetailCode-MajorRetailers-MR03.pdf.aspx?Embed=Y>

²⁶ The Essential Services Commission of South Australia, SA Water RD20, Consumer Experts Panel – Background Briefing: Review of the Water Retail Code – Major Retailers, June 2019, p. 2

Amendments

ESCOSA has made the following amendments to the provisions of the Code:²⁷

- *'Replace references to 'tenants' with references to 'consumers', in order to improve consistency with the WI Act and the regulations under that Act.*
- *Allow bills, notices and other documents to be issued using each customer's preferred form of communication, with the default remaining hard copy documents sent to the supply address with no specific charge for that service.*
- *Allow information about planned interruptions to be provided using a wider range of communication modes (such as SMS, websites, internet apps, and social media), with no changes made to Code requirements about providing information about unplanned interruptions.*
- *Require bills, notices and other documents to be in a format that can be easily read and understood by customers, and to be provided in alternative formats for customers with specific needs (for example, needs related to disability).*
- *Remove the obligation for SA Water to include a comparison of water usage with other similar customers on residential bills (noting that SA Water may still choose to provide appropriate comparative information).*
- *Allow meter readings taken by customers to be accepted as actual meter readings where SA Water considers they are accurate, further reducing uncertainty about potential future bill adjustments.*
- *Consistent with national energy market rules, reduce the time limitation on SA Water recovering any amount it undercharges (unless the customer is at fault) from 12 months to nine months.'*

SACOSS supports all these amendments and was particularly pleased with the requirement relating to accessible communication for all SA Water customers, including those with specific needs. This decision was in response to concerns raised by SACOSS and JFA Purple Orange around accessibility of information for SA Water customers with a disability.

Payment Difficulty and Hardship

The Code contains important protections for South Australian water consumers in vulnerable circumstances, including hardship and payment difficulty protections. There has long been concern that these protections do not extend to tenants (consumers) as well as customers of SA Water. SACOSS considered the review of the Code presented an opportunity to ensure tenants were included within the application of the hardship clauses.

²⁷ ESCOSA, SAW RD20, Final Determination, Statement of Reasons, June 2020, p.57 see: <https://www.escosa.sa.gov.au/ArticleDocuments/21489/20200611-Water-SAWRD20-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>

The South Australian Government is currently undertaking a review of the WI Act's payment difficulty and hardship provisions, and on this basis ESCOSA has decided to postpone its review of the related provisions in the Code until the government's review of the WI Act is finalised. SACOSS was concerned about delays to the WI Act review and sought assurances from ESCOSA that the payment difficulty and hardship provisions under the Code will apply to the maximum extent possible, until such time as amendments to the WI Act are made.

Recommendation

- ***SACOSS recommends stakeholders be informed of the status of the review of the payment difficulty and hardship provisions in the Water Industry Act 2012, including time frames for input and expected finalisation of the review.***

Family Violence Provisions

As part of the review of the Code, ESCOSA considered whether to include specific provisions for customers experiencing family violence. However, in the absence of a specific legislative mandate, ESCOSA decided that it would not pursue those changes at this time. ESCOSA did suggest SA Water consider adopting a family violence policy with a scope similar to that required of Victorian water businesses.²⁸

Recommendation

- ***SACOSS recommends the SA Government direct SA Water to adopt a family violence policy similar to that required of Victorian water businesses.***

²⁸ In Victoria, under a specific legislative mandate, the Essential Services Commission of Victoria (ESCV) introduced family violence provisions into its Customer Service Codes for Urban and Rural Water Businesses in 2018. See: ESCV, Customer service code urban water businesses, August 2018, clause 14, available at <https://www.esc.vic.gov.au/water/codes-and-guidelines/customer-service-codes>, ESCV, Customer service code rural water businesses, August 2018, clause 11, available at <https://www.esc.vic.gov.au/water/codes-and-guidelines/customer-service-codes>.

Water Issues in Remote Aboriginal Communities

Background

SACOSS engaged David Rathman to undertake a scoping study identifying some of the current key water issues affecting Aboriginal residents living in regional and remote communities in South Australia.

Key insights were gained from discussions with leaders and members of the Umoona Community (Coober Pedy), Dunjibar Community (Oodnadatta) and the Marree Arabanna Peoples Committee (Marree), including:

- Cost of living in regional and remote communities;
- Variation in how water is supplied to communities, billing arrangements, responsibilities and governance; and
- Water debt and restriction

While there were numerous other key issues identified in the scoping study²⁹, this briefing will focus on those noted above as they predominately involve pricing issues that affect South Australian consumers.

Cost of living in regional and remote communities

Water was identified as a high priority for stakeholders, with increased costs of living in remote and regional areas contributing to debt in communities and leading to poor health outcomes. The study has shed light on inequities in the affordability of water in areas of the state that are not serviced by SA Water. To provide an example of the disparity between remote water costs compared to urban water costs, performance data published by ESCOSA³⁰ shows the average annual drinking water bill (not including sewerage) for water customers supplied by Ceduna District Council³¹ was around \$1,263, or \$400 more than the average household water bill for SA Water customers in 2017-18.³²

SA Water operate under State-wide pricing principles, whereby the same price for water and sewerage are charged across the State. The State Government then pays SA Water a subsidy to make up the difference between the cost of supplying services in regional areas

²⁹ SACOSS, SACOSS Scoping Study on Water Issues in Remote Aboriginal Communities, June 2020, https://www.sacoss.org.au/sites/default/files/public/200630_SACOSS%20Scoping%20Study%20Remote%20Communities_FINAL.pdf

³⁰ ESCOSA, Regulatory Performance Reports, Minor and Intermediate Retailer 2017-18, May 2019, <https://www.escosa.sa.gov.au/ArticleDocuments/547/20190522-Water-MIR-RegulatoryPerformanceReport-2017-18.pdf.aspx?Embed=Y>

³¹ It is worth noting, the District Council of Ceduna has been in ongoing negotiations with SA Water for vesting of the Koonibba Water West Scheme in SA Water, See Annual Report 2018/19 p.13. See: https://www.ceduna.sa.gov.au/_data/assets/pdf_file/0028/345718/District-Council-of-Ceduna-Annual-Report-2018-2019-Adopted-20-nov-19.pdf

³² Average annual water bill for SA Water customers was around \$835 in 2017-18 (up from \$236 in 2001-02 an increase of 232 per cent). <https://www.escosa.sa.gov.au/ArticleDocuments/547/20190122-Water-SAWaterRegulatoryPerformanceReport-FactSheet.pdf.aspx?Embed=Y>

compared to metropolitan areas. Some Aboriginal communities have water costs subsidised by the State Government pursuant to a Community Service Order (CSO), including 22 remote Aboriginal communities serviced by SA Water.³³

As noted by John Hill in the Report of the Independent Chair of the Customer Negotiation Committee³⁴:

“The nexus between the Government subsidy and the cost to SA Water of applying the metropolitan price to regional areas has been lost. Indeed, we are advised that SA Water no longer calculates the metropolitan cost nor the cost of supplying different regions (...) As new initiatives are undertaken around the State to maintain or upgrade services the amounts and possibly the direction of these subsidies will change, but because SA Water does not allocate its costs to regions (including the metropolitan region) there is no way of tracking these changes and no way of knowing who is subsidising whom, or by how much.”

The report goes on to note that systems not covered by SA Water and state-wide pricing may be paying up to four times the state-wide price for water. The lack of clarity around regions who pay for water and those who receive subsidies creates inequities in the system. The fact that these inequities exacerbate multiple layers of disadvantage (e.g. housing, income, employment opportunities) should be cause for concern for the government, with implications discussed below.

Supply and governance issues

The co-ordination and governance of water supply to Aboriginal people in South Australia is not well defined and remains a mix of unconnected groups operating with a small group of consumers who have high level needs. Some examples observed in the Scoping Study include:

- The Aboriginal Lands Trust (ALT) has community groups who receive water from the District Council of Ceduna³⁵ (Ceduna Koonibba Water West Scheme³⁶), District Council of Coober Pedy, Outback Communities Authority³⁷ and SA Water.

³³ <https://www.sawater.com.au/community-and-environment/our-water-and-sewerage-systems/our-networks/regional-south-australia-water-supply/remote-communities>

³⁴ <https://www.escosa.sa.gov.au/ArticleDocuments/11296/20191112-Water-SAWRD20-CustomerNegotiationCommittee-IndependentChairReport.pdf.aspx?Embed=Y>, p. 23

³⁵ Notably, the District Council of Ceduna is currently examining a policy framework for emergency water supplies as part of its Draft Annual Business Plan 2020-21. See: https://www.ceduna.sa.gov.au/_data/assets/pdf_file/0025/643732/2020-21-Draft-Annual-Business-Plan-for-consultation.pdf

³⁶ District Council of Ceduna maintains two separate reticulated drinking water systems: **Ceduna Koonibba Water West Scheme (“Water West”)** Water West is a reticulated drinking water system, providing customers west of Ceduna with a readily accessible source of drinking water. Finishing 10 kilometres east of Penong, Water West services the township of Denial Bay, Koonibba Community and is available to properties adjacent to the main line. See: <https://www.ceduna.sa.gov.au/services-and-facilities/waterservices/drinkingwaterservices>

³⁷ On the 27 August 2013 ESCOSA granted the Outback Communities Authority a water retail licence for the sale and supply of water services at Copley, this was surrendered to SA Water on 1 July 2018.

- The Umoona Community is unclear about who is responsible for the infrastructure, and once the water crosses the boundary of the community, what agency is responsible for the management of water supply in the community.
- Houses and service providers in the Umoona community are individually metered but the community is not able to determine the consumption by individuals and groups because the provider doesn't read the meters attached to premises (it reads the bulk meter at the boundary), and the Umoona Council is left with the cost of water supply.

The above disparities, and lack of co-ordination were seen to have been worsened since the Aboriginal and Torres Strait Islander Commission (ATSIC) Regional Council structure was dismantled.

Recommendation

- ***SACOSS recommends State Government to conduct a holistic, strategic review regarding the supply, oversight and coordination of water to ensure there is sufficient water infrastructure and equitable access to safe and affordable water for all Aboriginal communities and homelands across the State.***

SACOSS understands that a broader policy framework for emergency water supplies is currently being examined as part of a cross-governmental 'Remote Communities Potable Water Supply Taskforce' led by the Department of the Premier and Cabinet. SACOSS has sought further information regarding the scope of the review, and it remains unclear whether it has led to broader policy discussions around pricing in the state.

Notwithstanding, SACOSS believes there should be a standing body responsible for co-ordination beyond the lifecycle of a governmental taskforce, and mechanisms for stakeholders representing Aboriginal communities to meaningfully engage and participate in decision-making processes.

Water Debt and Restriction

Stakeholders in the Scoping Study identified the need to reduce the burden of water debt in communities and to better understand ESCOSA's role in ensuring Minor and Intermediate water retailers provide support for remote customers experiencing debt and facing water restriction. The ALT pointed to the example of the community of Yarilena, which according to members of the community had experienced restricted water flow for a period of 12 months due to water debt, apparently without being offered support from the water retailer (the District Council of Ceduna).³⁸

The ALT indicated the lack of a specific body, organisation or support service to address hardship and financial stress in Aboriginal communities has forced the ALT to pay for

³⁸ The Ceduna Aboriginal Corporation (CAC) has oversight of municipal services for homeland communities including Betts Corner, Yarilena, Dinahline, Warevilla, Munda Munda Watu Tjina, Konngawa Dundey Bullinda, Munda & Wanna Mar, and Akenta, but this does not extend to water supply. It is unclear how all these homeland communities access drinking water and sanitation. See: <https://cac.asn.au/about/>

massive water bills, which is way outside its legislative brief. Stakeholders said the cost of water is often borne by the incorporated body as the water supplier bulk meters the community. Bulk metering also has an impact on debt accumulation. Stakeholders stated that debt is a major hurdle for some small communities as they are often supplied by the water authority without proper accounting of water usage by individual consumers.

According to many of the stakeholders, debt in remote communities is a major concern, and is often the result of poor governance or lack of resource to address issues on the ground. Coober Pedy is one of the poorest towns in South Australia and some stakeholders said the cost of utilities is expected to rise 60% to 68% with the introduction of a 'user pays' system.

Umoona community members said that whilst the Umoona community has access to potable water, the most concerning issue is the billing of water supplied to the community. Debt in Umoona has risen overtime with the community now having a bill of \$60,000. Most people in the Umoona Community are on limited fixed incomes, and are not able to absorb bill shocks. It was estimated that 90% of Aboriginal people in the Umoona community are dependent on pensions, carer payments and Newstart (now Jobseeker).

Some stakeholders suggested the South Australian government needs to better ensure water and sewerage concessions are being applied to unsubsidised water bills in remote Aboriginal communities. Stakeholders said there was a need to develop an education package in remote communities around concessions schemes more broadly (including energy concessions, rent payments), and the availability of financial counsellors and hardship supports.³⁹

Stakeholders said it was essential that a more equitable system for all utility costs across all communities is considered by the State Government (water costs in un-subsidised communities puts significant pressure on people's limited, fixed income).

SA Water stated that the customer assist team at SA Water are closely monitoring the debt situation in the communities it supplies, and are working with community groups to enable payment plan arrangements. In one of the cases, the plan includes actions to pay the debt. Stakeholders indicated there needs to be a system to address debt before it gets beyond the means of the community members to pay the bill.

Stakeholders pointed to the need for a holistic approach to the issue of equitable access to water and sanitation in remote communities; an approach that involves all levels of government and across all sectors. Stakeholders said the overall government response to potable water supply needs to be the same for all South Australians.

Strong feedback was given that State and Federal governments must guarantee clean water supply to remote South Australia and bring about a change of policy and strategy for Aboriginal communities. Stakeholders suggested a case by case approach to determine the best option, saying it is vital all people receive affordable running water which is fit for

³⁹ ConnectEd utilities literacy could be a valuable resource for community workers. See: <https://connected.org.au/>

human consumption and 'we need a fresh look at moral obligation to provide clean water to all people in the State'.

Recommendation

- ***The State Government investigates whether water and sewerage concessions are being applied to unsubsidised water bills in remote Aboriginal communities and works more broadly with stakeholders to develop an education package in remote communities around concessions schemes and the availability of financial counsellors and hardship supports.***

COVID-19 and Cost of Living

Background

As part of the SA Governments' response to COVID-19, a \$7.8 million stimulus package was announced on 22 April 2020 providing a one-off \$500 Cost of Living Concession payment to those receiving JobSeeker.⁴⁰ The payment effectively increases the 2020-21 amount from \$215.10 to \$715.10 for eligible homeowners, and \$607.60 for eligible tenants to assist those on low or fixed incomes with the cost of essentials such as rent, energy, water or medical bills. SACOSS has welcomed this much need assistance package.

Slipping through the Gaps

The Minister's media release acknowledges that while more than 180,000 South Australians are currently in receipt of the Cost of Living Concession, there may be "thousands potentially missing out." This may particularly be the case with a new cohort of COVID-19 impacted households on reduced incomes experiencing unemployment or underemployment. For some households, this may be the first time they have found themselves in financial stress and pose a challenge if they are not traditionally connected or aware of available support services and concessions.

SACOSS' own research on 'waged poverty' in the energy and telecommunications space suggest that there are a number of barriers for this cohort seeking help, including lack of knowledge of services available, the perception that others were 'worse off', not believing they were 'as needy' as others, and feelings of embarrassment or shame.⁴¹ Significantly, the energy-focussed research (based on ABS data) found that less than 1% of 'waged poor households'⁴² sought assistance from charities and non-government organisations when in financial stress. These trends were replicated in the telecommunications research which found that waged poor households were more likely to negotiate payment with their service provider (46%), borrow from family or friends (24%), or sacrifice another bill (19%), than seek assistance from a charity non-government organisations (7%) when in financial stress. While similar research has not been replicated in the context of water affordability, we would expect similar trends for water bill payers.

The above undoubtedly presents a challenge for community service organisations to overcome cultural barriers to seeking help. Possible solutions include more proactively trying to reach households who may be struggling to make ends meet by 'pitching' to those outside the traditional cohort and a marketing / communications approach normalising services in the community. From a government perspective, there may be similar factors at play for households not accessing concessions despite being eligible, and in genuine need.

⁴⁰ [https://www.covid-19.sa.gov.au/latest-news/\\$7.8-m-boost-to-help-with-cost-of-living](https://www.covid-19.sa.gov.au/latest-news/$7.8-m-boost-to-help-with-cost-of-living)

⁴¹ <https://www.sacoss.org.au/waged-poverty>

⁴² Defined as a household living below the poverty line, whose main source of household income is wages and salaries

Recommendation

- ***SACOSS recommends that the State Government works with industry and NGO sector to enable some pro-active, positive promotion of support services available to those who struggle with cost of living.***

Disability, high water needs and concessions

Another cohort slipping through the cracks of both concessions and COVID-19 related assistance are those on living with disability and carers. As widely reported, those on Disability Support Pension (DSP) and Carer Payment are currently excluded from JobSeeker payments⁴³ and are therefore also missing out on the Cost of Living supplement.

Previous research has highlighted that households with people living with a disability have specific high water needs relating to therapy, pain relief, hygiene and comfort.⁴⁴ For example, extra (and longer) hot showers and hydrotherapy are required for pain relief by those with arthritis. Those with neuromuscular conditions such as centronuclear myopathy, muscular dystrophy, familial spastic paralysis and multiple sclerosis have a similar hot water need, in this case to warm the muscles and allow daily function. Hygiene needs may also be greater in relation to incontinence, temperature control, or therapy. In the context of a pandemic, the need for additional water usage for hygiene and sanitation is arguably heightened, especially for such a high-risk cohort.

SACOSS has previously called for the introduction of water rebates for high water needs to cover any medical condition or disability that creates the need for significant extra water use.⁴⁵ We acknowledge that there are some complexities involved in the design of such an enhanced water bill medical concession (as detailed further in SACOSS' Budget Submission). However, given that COVID-19 has further highlighted inequities for people living with disability requiring high water use, we reiterate the call for a water bill medical rebate here.

Recommendation

- ***SACOSS recommends that the Government introduces a water bill medical concession to cover any medical condition or disability that creates the need for significant extra water use.***

⁴³ <https://www.abc.net.au/news/2020-04-19/coronavirus-supplement-people-with-disability/12158526>

⁴⁴ <https://www.sacoss.org.au/sites/default/files/public/documents/Reports/Purple-Orange-Water-Consumers-Report-2-Draft-v4-Singles.pdf>; <https://www.sacoss.org.au/sites/default/files/public/documents/Reports/Purple-Orange-Water-Consumers-Report-2-Draft-v4-Singles.pdf>

⁴⁵ <https://www.sacoss.org.au/sites/default/files/public/Budget%20submission%202020-21%20-%20Complete%20FINAL%20FINAL%202020-01-20.pdf>, p. 46 - 48