

Economic Regulation of Intermediate and Minor Retailers of
Water and Sewerage Services - DRAFT Price Determination
and Consumer Protection Framework February 2013
Essential Services Commission of SA
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4 April, 2013

Dear Commissioners,

Thank you for the opportunity to comment on the Economic Regulation of Intermediate and Minor Retailers of Water and Sewerage Services, DRAFT Price Determination and Consumer Protection Framework February 2013.

As the peak body for the community services sector in South Australia, SACOSS has a long-standing interest in the delivery of essential services and particularly the cost of basic necessities like water because they impact greatly and disproportionately on vulnerable disadvantaged people. In this particular case, the consumers most likely to be impacted are in regional and remote areas of the state.

Background and Introduction

ESCOSA has proposed that the draft determination and framework will apply for four years from July 1st 2013 to June 30th 2017. The Commission intends to treat this initial regulatory period as a *'transitional period'* that focuses on increasing transparency of current practices.

In past submissions on the Draft Water Retail Code, SACOSS has argued for a Retail Code dedicated to the needs of residential customers in order to "... *make it entirely clear that supplying drinking water to households is accompanied by significant obligations.*"

The overall approach of the draft Consumer Protection Framework however, is to segment the Retail Code and consumer protections based on the number of customers that an entity supplies and to require less of suppliers with fewer customers. This is inconsistent with the SACOSS position that the consumer protection framework for residential customers should be both strong and universally applied. The framework instead centres on the size of the entities themselves rather than the customers they serve. This diluted approach is a fundamental concern with the draft framework.

Discussion

ESCOSA has proposed that the draft determination and framework will apply for four years from July 1st 2013 to June 30th 2017. The Commission intends to treat this initial regulatory period as a *'transitional period'* that focuses on increasing transparency of current practices.

SACOSS is of the view that a *transitional* approach with a focus on transparency is reasonable. SACOSS is of the view that 4 years seems like a generous time frame for such

a transition but acknowledges that this will allow for staggering of resources given the 3-year initial regulatory period for SA Water.

SACOSS notes that:

“The Commission considers a collaborative approach to monitoring, reporting and compliance as being particularly important during the initial regulatory period, and will work with Minor and Intermediate Retailers as they move towards implementation of the requirements of the pricing and consumer protection frameworks” (Draft Determination, Executive Summary page vi)

SACOSS concurs that a collaborative approach is necessary. Further, SACOSS is of the view that this includes the implementation of Hardship Policies and practices to support the needs of vulnerable consumers. SACOSS is concerned that the development of the template Hardship Policy by the Department of Communities and Social Inclusion has not been released in its final form and that the Consumer Advocacy and Research Fund (CARF) specified in the Water Industry Act is yet to materialise.

The CARF is called up at s87 of the Water Industry Act 2012 and for the fund to be applied:

“... to support research or advocacy that promotes the interests of consumers with a disability, low-income consumers, or consumers who are located within a regional area of the State” (s87 (5) (a), emphasis added)

SACOSS understands that the basis for the diluted Consumer Protections for smaller suppliers is based on Section 25(2) of the Water Industry Act, 2012 which states:

“The Commission must, in acting under subsection (1) [Licence Conditions], have regard to the scale and nature of the operations of the water industry entity (with the scale and nature being determined by the Commission after consultation with the entity or a person or body nominated by the entity).”

Further, it is understood that:

“... the Commission recognises that for some small operations, the costs associated with compliance with the Water Retail Code – Minor Retailers may outweigh the benefits afforded to consumers and thus a more tailored approach may be required in some instances.” (Draft Determination, page 6)

SACOSS is however of the view that this is not sufficient rationale for significantly reduced obligations. While it is reasonable to assume that if these increased costs of some elements of the consumer protection framework were passed on to consumers directly, the impact on prices may well be significant, it is our view that this situation instead warrants implementation of a Community Service Obligation (CSO) payment directly from Government. This can be considered a simple extension of the current commitment to provide \$323m to SA Water over three years to implement ‘state-wide pricing’ (see Ministerial Direction January 2013 at Appendix C of ESCOSA Draft Determination for SA Water¹).

Based on licensee information on the ESCOSA website, it is understood that the following entities have been licensed to provide drinking water:

¹ <http://www.escosa.sa.gov.au/projects/186/determination-of-sa-water-s-drinking-water-and-sewerage-revenue-2013-14-2015-16.aspx#stage-list=2>

Licensee	Licence category	Drinking water	Non-drinking water	Sewerage
DC Coober Pedy	Minor (2)	Yes	Yes	Yes
DC Elliston	Minor (2)	Yes	Yes	Yes
DC Franklin Harbour	Minor (2)	Yes	No	No
DC Ceduna	Intermediate (1)	Yes	Yes	Yes
DC Mt Remarkable	Intermediate (1)	Yes	No	Yes
DC Yorke Peninsula	Intermediate (1)	Yes	No	Yes
Kangaroo Island Council	Intermediate (1)	Yes	No	Yes
Rural City of Murray Bridge	Intermediate (1)	Yes	No	Yes
Alexandrina Council	Intermediate (2)	Yes	Yes	Yes
Roxby Council	Intermediate (2)	Yes	Yes	Yes
SA Water	Major	Yes		Yes

It is understood that Roxby Council (through RoxbyWater) is by far the largest supplier (to a population of around 5,000). SACOSS also understands that the Outback Communities Authority (OCA) has a pending license application to provide drinking water services to approximately 80 properties at Copley (around 5km north of Leigh Creek, and around 550km north of Adelaide).

SACOSS is of the view that a priority project to be funded under the CARF should be to engage with these Regional Suppliers and with Regional Community Service Organisations to provide a collaborative approach to implementing hardship policies and working towards convergence around a best practice approach.

It should also be noted that media and anecdotal reporting of water quality issues for communities supplied at the edges of the SA Water network and by non-SA Water entities suggests a need to focus attention on this aspect. A transparent but simple comparison of prices is incomplete without reference to drinking water quality. Such issues are analogous to the variations in distribution reliability (outage duration and frequency) experienced by SA Power Networks customers in the various supply regions. While state-wide pricing delivers uniform pricing to customers no matter where they are located on the grid, the actual 'quality' of the service and hence the value proposition for these consumers will therefore vary significantly. Convergence towards best practice approaches to serving consumers must therefore be considered in this light.

Summary

SACOSS is concerned that the framework for consumer protection for water consumers in South Australia is to be based on the capacity of the supplier and not the needs of consumers. It is our view that the rationale that smaller suppliers do not have the resources to provide a full suite of protections does not hold and in fact represents a case for delivery of Community Service Obligation (CSO) payments from government.

However, SACOSS does support the notion of a collaborative approach during an initial transitional regulatory period. SACOSS will be looking to both ESCOSA and the South Australian Government to support efforts in this regard.

Thank you for your consideration of these comments. If you have any questions relating to the above responses, please contact SACOSS Senior Policy Officer, Jo De Silva on 8305 4211 or via jo@sacoss.org.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Womersley', with a large, sweeping flourish underneath.

Ross Womersley
Executive Director