

# ESSENTIAL SERVICES COMMISSION

## *Strategic Plan 2012/2015*

JUNE 2012



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## INTRODUCTION

I hope you enjoy reading the Strategic Plan of the Essential Services Commission of South Australia ("The Commission") for the period 2012/13 to 2015/16.

Much has changed since the Commission published its previous Strategic Plan one year ago. The Commission is about to take on new regulatory responsibilities in the water industry and will cease certain activities in the electricity and gas retail sectors. Cost and price pressures have continued to grow in electricity, gas and water. Significant changes in government policies, technologies and the uptake of certain technologies have occurred.

However, the Commission's primary objective – to protect the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services – is unchanged.

This Strategic Plan explains how the Commission will strive to achieve its primary objective, given the recent changes that have occurred and the potential changes that may occur over the next three years.



Patrick Walsh  
CHAIRPERSON



## PRIMARY OBJECTIVE

*Our primary objective is defined by the Essential Services Commission Act as:*

**“...protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services”.**

## ABOUT THE COMMISSION

**We are the independent economic regulator of a number of industries which provide essential services in South Australia. We are a statutory authority, established under the Essential Services Commission Act 2002.**

In addition to our primary objective, the Essential Services Commission Act also sets out seven other factors to which we must have regard in performing our functions, such as promotion of economic efficiency and the viability of regulated entities.

We interpret our primary objective by considering the welfare of consumers both today and in the future. We recognise that current and future consumer welfare must be carefully traded off. While our focus is on consumer welfare, we recognise that the interests of regulated entities and other stakeholders are relevant to the extent that they affect the current and/or future welfare of consumers. For example, we must ensure that appropriate investment incentives exist today to ensure that the future needs of consumers are met.

The Commission comprises four Commissioners: Pat Walsh (Chairperson), John Hill, Richard Blandy and Barbara Rajkowska. The Chairperson and Commissioners are appointed by the Governor, in accordance with the Essential Services Commission Act.

The Commission is supported by 27 staff, led by a Chief Executive Officer, Paul Kerin. Some of the functions of the Commission are delegated to the Chief Executive Officer in accordance with the Essential Services Commission Act.

## Functions

**The Essential Services Commission Act and various industry acts together provide us with regulatory powers and functions in the electricity, gas, maritime, rail and water industries. Each industry Act defines the specific scope of our regulatory powers and functions.**

Our powers and functions vary significantly between industries. Our regulatory functions are summarised by industry in Table 1.

Our key regulatory functions include licensing, consumer protection, access regulation, price regulation, performance monitoring and administration of the South Australian Residential Energy Efficiency Scheme (REES).

In addition, we also undertake inquiries on our own volition or at the request of Ministers in the industries we regulate and advise the Treasurer on any matter referred to us relevant to our functions.

*Table 1: Commission Regulatory Functions by Industry*

| INDUSTRY    | LEGISLATION   | REGULATORY FUNCTIONS   |
|-------------|---|--|
| Electricity | Electricity Act 1996  | Licensing of specified electricity operations in SA, consumer protection, retail and solar PV feed-in price regulation, Residential Energy Efficiency Scheme administration, performance monitoring. |
| Gas         | Gas Act 1997  | Licensing of specified gas operations in SA, consumer protection, retail price regulation, Residential Energy Efficiency Scheme administration, performance monitoring.                              |
| Rail        | AustralAsia Railway (Third Party Access) Act 1999; Railway (Operations and Access) Act 1997 | Access regulation for the Tarcoola–Darwin railway and specified intra-state rail lines.  |
| Ports       | Maritime Services (Access) Act 2002   | Pricing and access regulation for specified port services.   |
| Water       | Water Industry Act 2012   | Licensing of specified water and wastewater retail operations in SA, consumer protection, retail price regulation, performance monitoring.   |

## ABOUT THE COMMISSION

### *Values*

Our six values describe the behaviours that we will always display:

#### **1. Ethical**

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We act honestly, fairly and with integrity.

#### **2. Independent**

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We always act to best serve the long-term interests of consumers. We favour no-one and are not unduly influenced by anyone.

#### **3. Professional**

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Our decision-making is disciplined and rigorous. We explain the reasons behind our decisions and make our judgements using logic and the knowledge and experience of the disciplines of law and economics.

#### **4. Accountable**

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We take responsibility for our actions.

#### **5. Collaborative**

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We proactively consult stakeholders and collaborate, while maintaining independence.

#### **6. Adaptable**

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We are flexible to ensure we adapt to changing industries or situations. We respond to changing circumstances and, if required, take action in times of uncertainty and without complete information.

## Goals

The following four goals guide us in striving to meet our primary objective of protecting the long-term interests of consumers with respect to the price, quality and reliability of essential services:

### ***1. Consumers receive essential services of appropriate reliability and quality***

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Consumers of essential services should have a clear understanding of the level of service being provided. Trade-offs necessarily exist between the benefits that consumers receive from higher service quality and/or reliability and the costs of their provision.

### ***2. Consumers pay the lowest sustainable prices***

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Prices can encourage both efficient use of essential services and efficient investment in their provision. Prices should reflect the prudent and efficient costs of providing essential services of appropriate quality and reliability.

### ***3. Stakeholders trust us***

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Stakeholders are more likely to trust us to make sound decisions if they recognise that we will scrutinise all relevant information and make all decisions independently, transparently and with integrity. An environment of trust will ensure that stakeholders provide timely, high quality information. We will endeavour to create an environment of trust by ensuring that stakeholders are consulted, their views are considered seriously, their information is used wisely and their confidentiality is respected.

### ***4. Our people, culture and processes enable us to best serve our primary objective***

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The functions we perform are complex, require strong interaction with stakeholders, can generate significant impacts for individual stakeholders, and are funded by industry and government (and ultimately by consumers and taxpayers). Therefore, we require highly skilled staff, a collaborative but independent approach, consultation and governance processes that generate trust while protecting our independence and integrity, and efficient and effective operating processes.



## ABOUT THE COMMISSION

### **To achieve these goals, we will focus on seven work programs:**

1. Establish, administer and review licensing and compliance regimes.
2. Establish, administer and review consumer protection programs.
3. Establish, administer and review pricing and access regimes.
4. Engage and consult with stakeholders and provide information on regulatory decisions and frameworks and consumer rights and responsibilities.
5. Promote effective governance and operating processes.
6. Promote teamwork, a positive work environment and the development of our staff.
7. Demonstrate expertise and thought leadership in regulated industries.

We develop detailed work plans which focus on meeting our goals through these work programs. These work plans form the basis of our performance plan and are based on our key strategic themes. The focus of this strategic plan is on our key strategic themes for the next three years. The Performance Plan 2012/13 is available on our website.

## KEY STRATEGIC THEMES FOR 2012/13 – 2015/16

This section provides an overview of four key strategic themes on which we will place particular weight during the three years of this plan. We have developed these strategic themes to address the implications of changes in our regulatory functions and/or in the industries that we regulate. Many of our activities have not been affected by these changes and will therefore continue as previously planned and are not dealt with in this section.

The four key strategic themes are:

- 1. Implementing independent economic regulation in the water industry***
- 2. Managing role transition and community concerns in energy retailing***
- 3. Dealing with consumer hardship***
- 4. Ensuring effective communication and information provision***

## KEY STRATEGIC THEMES FOR 2012/13 – 2015/16

### *1. Implementing independent economic regulation in the water industry*

**In April 2012, the Water Industry Act 2012 received Royal Assent. The objects of the Water Industry Act include the promotion of efficiency, competition and innovation in South Australia's water and wastewater sectors.**

The Water Industry Act establishes the Commission as the independent economic regulator of the water industry. It confers on us key powers and functions, including licensing of water and wastewater retail operations, consumer protection, retail price regulation and performance monitoring.

The establishment, implementation and ongoing review of new regulatory arrangements in the water and wastewater sectors will be a major focus of our work throughout the three-year planning period. It will require a major implementation effort in 2012/13 and considerable ongoing activities thereafter, in order to ensure that the regime is robust and working in the best long-term interests of consumers.

We expect that sections of the Water Industry Act that confer these powers and functions on us will commence on 1 January 2013. However, we will have a heavy water regulatory workload throughout 2012/13. Our work will focus in three areas: licensing, consumer protection and pricing.

#### ***Licensing***

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The legal requirement to hold a licence prior to providing consumers with retail services is likely to apply from 1 January 2013. However, this will require substantial work throughout 2012/13.

To ensure an orderly transition to this licensing regime, we will engage with existing service providers and potential new entrants during the first half of 2012/13, with a view to making in-principle licensing determinations so that licences can be formally issued on 1 January 2013.

We will conduct intensive consultation and information programs to ensure that potential licence applicants understand how to apply for licences, what they need to demonstrate to be granted a licence, the timing requirements for applications, and their obligations as licensees should they be successful.

We will conduct the required statutory assessments of licence applications against the criteria set out in the Water Industry Act.

#### ***Consumer protection***

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In 2012/13, we will establish and implement a strong consumer protection regime. Industry codes and guidelines will specify the service and conduct standards that licensees must meet in their dealings with customers, together with a regulatory compliance, reporting and enforcement framework. They will include regulated customer contracts, legally binding service standards and regulated dispute resolution processes.

The consumer protection framework will ensure that consumers have ongoing access to retail services, receive accurate and timely information about those services (including prices and retailers' billing obligations) and are afforded the benefits of a robust and independent dispute resolution regime, through the Energy and Water Industry Ombudsman.

To ensure that the consumer protection regime works most effectively in practice we will communicate extensively with consumers, existing and potential retail service providers

and other stakeholders. We will execute a dedicated communication and information campaign during 2012/13 to explain the regime to all stakeholders; how it affects them, and how we see the regime developing in future. We will continue to run strong communication and information programs beyond 2012/13, as we seek to understand community views and modify our regime as necessary to reflect the changing needs of South Australian consumers.

As the regulatory regime will, for the first time, require licensees to meet binding regulatory standards of service, we will work with licensees, particularly in 2012/13, to ensure that they have appropriate systems and controls in place to meet those standards. We will institute a regime for compliance, performance monitoring and reporting to ensure that we are well informed and can take timely action to ensure that problems are rectified. That regime will also enable us to provide all consumers with important information on the performance and development of the water and wastewater sectors. To facilitate the understanding of these issues by all stakeholders, we will publish regular performance reports, including an annual performance report that presents and explains key consumer outcomes.

## Pricing

The Water Industry Act provides us with price regulation powers and functions in the water industry.

SA Water, the dominant provider of retail water and wastewater services in South Australia, serves the vast majority of customers. However, many other retail service providers exist (including various local councils and private operators) and new players may receive licences.

We will tailor our approach to price regulation for different licensees, based on our assessment of the potential costs and benefits of regulation. Price regulation will be strongest for SA Water, given its dominance and potential market power. We will regulate prices of licensees with smaller scale and/or scope, although such regulation will be more light-handed.

In 2011/12 we commenced a program of public consultations on our approach to price regulation of SA Water and other licensees. This will continue in the first half of 2012/13.

Importantly, we will conduct consultation and information programs with potential licensees early in 2012/13 to ensure that they understand their pricing obligations.

Under the Water Industry Act, we must make the first Price Determination for SA Water before the end of 2012/13. This Price Determination will be for the three-year period commencing 1 July 2013. We will apply substantial scrutiny to SA Water's capital and operating expenditure plans and determine the cost of capital that should apply. We will also run a substantial public consultation program, including consultation on an Issues Paper (from October 2012) and a Draft Price Determination (from February 2013). We will make the Final Price Determination in sufficient time to ensure that SA Water can comply with that determination from 1 July 2013.

An important pricing-related issue concerns metering arrangements for the supply of water. More wide-spread and/or sophisticated metering facilitates usage-based pricing, but would also lead to additional costs. The Water Industry Act requires us to review metering arrangements for water supply and provide a report to the Government by 30 June 2013. We will conduct this review through an open and transparent public inquiry process. We will commence this review in the second quarter of 2012/13 and complete it in the fourth quarter.

In 2013/14 and 2014/15 we will ensure that the licensing, consumer protection and pricing regimes work effectively. The experience of 2012/13 will inevitably highlight a number of issues to be addressed and improvements to be made. We will address key issues and realise improvement opportunities as soon as possible, while licence reviews, compliance, performance monitoring and enforcement and pricing work will remain key functions on an ongoing basis.

Finally, we understand that the Government will ask us to undertake a number of other reviews of key water industry reform options. Most of those reviews will be conducted during the second and third years of the planning period.

## KEY STRATEGIC THEMES FOR 2012/13 – 2015/16

### ***2. Managing role transition & community concerns over energy retail prices***

The major issues that have affected our energy-related work programs in this year's Strategic Plan are the transitioning of some retail regulatory roles to the national level and growing community concerns about rising retail prices.

#### ***Managing role transition***

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With the commencement of the National Energy Customer Framework from July 2012, we will lose some energy retail functions, however, significant responsibilities remain.

The implementation of the National Energy Customer Framework will result in the transfer of certain energy retail functions to the Australian Energy Regulator. These include licensing, customer protection functions and service standard setting functions, together with compliance and performance monitoring of these activities. We will retain our retail energy standing contract price setting functions and continue to administer the Residential Energy Efficiency Scheme. Our energy generation, distribution and transmission functions will continue unchanged.

An initial focus will be to assist the Australian Energy Regulator in the transition of regulatory functions. We have regulated the competitive energy retail market in this State for ten years and have significant knowledge and experience in the sector. We believe that transferring that knowledge and experience to the Australian Energy Regulator is important for South Australian consumers, as it will help the Australian Energy Regulator to focus on key South Australian issues during at least the initial stages of its new regulatory role.

Looking forward, the laws establishing the National Energy Customer Framework in this State require us to keep a continued watching brief on the extent of energy disconnections for non-payment and to undertake a major review of the effectiveness of the Framework. We will commence that review during the last year of the current planning period (2014) and provide a report to the Minister for Energy. We will conduct that review in an open and transparent manner, seeking the input of South Australian consumers and other relevant stakeholders to ensure that we provide robust advice.

### ***Managing community concerns over retail pricing***

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Notwithstanding the commencement of the National Energy Customer Framework, we will retain our energy retail pricing function and will make a new standing contract price determination for both electricity and gas in 2013/14.

Prior to this we will undertake a comprehensive review of competition in the energy retail market, to inform our thinking on the most appropriate approach to energy retail price regulation to be applied in the Commission's next price determinations. As a part of that review, we will seek views from consumers and other relevant stakeholders and will ensure that our processes keep the community informed of the state of the market and the impacts of our pricing decisions.

We have recently announced significant rises in electricity and gas retail prices. These price rises reflect considerable cost increases – particularly due to the introduction of the Commonwealth Government's carbon tax and escalation in the cost of the State Government's Feed-in-Tariff Scheme for solar PV customers. However, we have been closely monitoring whether wholesale electricity costs have changed materially for other reasons since our 2010 price determination. As a result, when we announced the recent price increases, we also announced that we would undertake an important review of wholesale electricity costs. We will undertake this important piece of work in the first half of 2012/13.

Our aim is to ensure that prices reflect the efficient costs of energy retailing. Where those costs change, resulting in a change in price, the Commission will transparently report the reasons for those changes. We will also report the impacts of any price change on different consumer types, and provide information to consumers on ways in which energy bills can be minimised.

### ***Other functions***

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We will retain the administration of the Residential Energy Efficiency Scheme and Powerline Environment Committee and also our licensing and service standards setting functions in energy distribution, transmission and generation.

The continued interest in renewable energy in South Australia will mean that we will review existing renewable electricity licensing arrangements. In 2012/13, we will review the licensing conditions for wind generation, considering the most appropriate arrangements to ensure high levels of network security in the face of world-leading levels of wind generation being connected to the South Australian grid. This review will take into account and build on national work in this area presently being undertaken by the Australian Energy Market Operator. Another project will be much broader in scope and will consider the appropriate licensing regimes for a range of renewable energy forms, including solar and tidal energy. Both projects will require the Commission to maintain engagement with project proponents and other stakeholders, such as ElectraNet and the Australian Energy Market Operator.

## KEY STRATEGIC THEMES FOR 2012/13 – 2015/16

### *3. Dealing with consumer hardship*

**We understand current community concerns about the impacts of utility prices on households, particularly vulnerable households, and recognise the importance of stating publicly how issues of hardship are best reflected in our work. In particular, we perceive a degree of concern and confusion over our role in relation to hardship in utility pricing. To address those issues, we will continue to explain our role and what we can and cannot do to within our regulatory framework.**

We consider it essential that, where we have a price setting role, we must set prices at the lowest sustainable levels, recovering only the efficient and prudent costs of service delivery, so as to ensure South Australian consumers pay no more than is necessary. To do that we must scrutinise all cost proposals put forward by regulated entities. Where we identify social, distributional or other policy gaps through our pricing work, we will advise the Government of those gaps and of our views in relation to them.

However, as a statutory authority, we do not have a broad social policy remit; such matters are for the South Australian Government, as elected representatives, to address through appropriate means. As such, while we can and should advise the Government of policy gaps and community affordability issues, we cannot set artificially low prices: to do so would be unsustainable and to step outside the proper role of the regulator.

We have reviewed these issues in detail and will be applying the following approach in our regulatory work during the 2012/15 planning period.

### ***Price determinations***

In making price determinations we will ensure that consumers pay for no more than the efficient costs of the services provided by businesses. We will carefully scrutinise the costs proposed by business in each industry and, where we do not accept those costs as being either prudent or efficient, we will reduce them accordingly. Where we set prices, we will do so in a manner which best reflects the most efficient and effective use of resources in the community, so as to protect consumers' long-term interests.

In between making pricing determinations we will monitor markets, with a particular emphasis on competitive markets, and amend pricing structures where necessary.

While our pricing decisions will be based on efficient costs and reflect efficient and effective use of resources, we acknowledge that in some cases they may add to the financial difficulties faced by low and fixed-income consumers. To the extent that we are aware of such instances, we will publicly identify them to the Government through our decision documents in order that it can consider the appropriate social policy response.

### ***Consumer protection standards***

In establishing and monitoring consumer protection standards, such as average reliability standards, telephone responsiveness standards and broad-based billing, dispute resolution, payment and disconnection standards, we will ensure that all South Australians receive equal treatment. In doing so, however, we will acknowledge that there are elements of our community with particular financial and other difficulties, and will make sure that they receive the necessary additional protections (such as the benefit of regulated hardship programs, additional payment options, recognition of medical conditions) in order that they can enjoy the same access to essential services as all other consumers. In establishing all of our service standards, including hardship measures, we will consult with the community and take into account issues raised. Where we have no legislative powers to address a particular matter, we will acknowledge that and will provide advice to the relevant authority for their consideration.



## KEY STRATEGIC THEMES FOR 2012/13 – 2015/16

### *4. Ensuring effective communication and information provision*

**We regard it as essential that South Australian consumers gain a better understanding of the issues relating to essential services and the role we perform in protecting their long-term interests.**

Therefore, during 2012/15, we will focus on communicating with South Australians on key regulatory issues and the outcomes of our consumer protection and pricing processes. We will review our communications strategy and documents to identify ways in which we can better deliver those messages to South Australian consumers.

We make the following promises about our communication processes:

- We will employ a rigorous, transparent and inclusive review process. We will be open about our work and consider effective consultation to be a key element of good decision-making.
- We will allow involvement. The ability for stakeholders and consumers to be involved in reviews will vary depending on the goals, time frames, resources and impact of the decision to be made. The majority of our reviews will allow stakeholders and consumers to provide input on the likely impact of our decisions and to suggest alternatives and improvements at various stages of our review.
- We will provide stakeholders and consumers with balanced and objective information to assist them understand our decisions, the frameworks we operate within and the markets we regulate.
- We will work with stakeholders directly to identify issues and understand their concerns prior to making our decisions.



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