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13 August 2014

Water Retail Code – Minor & Intermediate Retailers – Draft Decision

The Essential Services Commission of South Australia
GPO Box 2605
ADELAIDE SA 5001+

Via email escosa@escosa.sa.gov.au

Dear Sir/Madam,

Economic Regulation of Minor & Intermediate Water Retailers and Draft Water Retail Code

The City of Charles Sturt would like to thank the Commission for the opportunity to provide feedback on the Draft Decision - Water Retail Code - Minor & Intermediate Retailers to include mandatory use of Commission prepared Customer Service Charters and Customer Supply Agreements for water and sewerage services.

Introduction

This submission is lodged by the City of Charles Sturt in response to request for submissions relating to the introduction of mandatory water supply agreements and customer service charters as prepared by the Commission.

This submission highlights those areas of the proposed documents that Charles Sturt feels could better respond to the varied types of services provided to water users by numerous water retailers throughout the state.

Background

Charles Sturt is currently constructing infrastructure to collect, treat, store (Aquifer Storage Recovery) and supply recycled stormwater to residential and non residential customers in the local council area.

The supply area is limited to residential connections in two land developments, St Clair and Woodville West. Both developments will utilise recycled stormwater for irrigation and toilet flushing within the residential allotments.

Infrastructure construction is scheduled for completion in 2015. Interim water supply arrangements for residents living within the identified land developments have been secured by agreement between SA Water and Charles Sturt. Potable water is purchased by Charles Sturt through a metered connection and used to charge Councils non-potable infrastructure. Land owners are then onsold the purchased water through their non-potable residential connections.

All land allotments within the retail supply areas of St Clair and Woodville West are encumbered by a Land Management Agreement requiring landowners to connect to recycled



water infrastructure so as to comply with the Development Act in using an alternate water source to at least one toilet as an alternative to installing individual rain water tanks at each property and the developer encumbrances to connect to the reticulated network within the land division.

Submission Response

As advised by the Commission in the Executive Summary, the Draft Decision to amend the current Water Retail Code – Minor and Intermediate Retailers has been prompted by a slow response by water retailers to provide the Commission with Customer Sales Contracts and Customer Charters. Further, those documents lodged by some retailers were found to have a broad disparity in content and format. Hence the introduction of standard contracts and charters to be used by licenced Minor and Intermediate Water Retailers as had been the Commissions direction and experience when regulating gas and electricity retailers in earlier years.

Council notes it was a requirement to lodge a Customer Charter at the time of applying for their Water Retail licence. Charles Sturt lodged its application for water licence with the Commission on 6 November 2012 included with this application was our Recycled Water Customer Service Charter.

In accordance with the Final Decision on Economic Regulation of Minor & Intermediate Retailers of Water and Sewerage Services as issued by the Commission in June 2013, Charles Sturt lodged documents with the Commission on 12 September 2013. The documents lodged for approval included Recycled Water Supply Agreement, Recycled Water Customer Charter, Enquiries, Complaints & Dispute Procedures and Financial Hardship Policy. A response from the Commission in relation to the approval of these documents was received on 10 July, 2014.

If the Commission is seeking to base its decision to introduce Code amendments on the basis of a number of retailers not having submitted documents for approval, and disparity in format and content, Council would ask the Commission to consider a response that does not penalise those that have complied with requirements but rather creates a safety net to protect customers as a minimum rather than a mandated standard.

Such an approach would better respond to the diverse group of suppliers and operations avoiding the waste of retailers expending time and finances in preparing documents that may now become redundant and difficult to 'roll back'.

Charles Sturt has no objection to standard Supply Agreements and Service Charters being used by new entrants to the water retail industry, or for those retailers who have yet to formulate or lodge these documents with the Commission for approval. However, Charles Sturt sees the most appropriate and equitable form of dealing with the issue of retailers who are currently using, or have prepared, Supply Contracts and Service Charters to work with those contractors in achieving compliance with the Code without requiring the mandatory use of these documents with minor modifications. Where Supply Agreements and Customer Charters are written in the spirit of the Act and Code and meet all consumer obligations as set forth in this legislation but do not meet the format expected by the Commission, alternate approvals should be considered and granted by the Commission.

Consideration must also be given with respect to the financial outlay by retailers in seeking legal counsel to prepare these documents. Further expense would be incurred by retailers in administering and providing consumer advice where new contracts are issued to customers and two documents are valid concurrently, as suggested by the Commission.

Proposed Amendments – Supply Contracts & Customer Charters

Charles Sturt would like to provide feedback on the content of the proposed standard Supply Agreements and Customer Charters. In reviewing the standard documents as proposed by the Commission there are many items within these documents that Council strongly suggests should be reconsidered, included, excluded or amended.

1. Water Quality – ESCOSA have used the wording 'safe and in accordance with all relevant health and environmental regulatory requirements'. It is suggested that the words 'fit for purpose' should also be included, as this will cover the various forms/types of water supplied by retailers given the variation in operations.
2. Land Management Agreements – as explained earlier in this submission Charles Sturt holds Land Management Agreements on land connected to our retail sale of recycled water. These documents, in their current format, do not make any reference for the potential for the existence of Land Management Agreements that may require a customer to connect, and remain connected, to a supply in order for that customer to have met Development Act requirements and Design Encumbrances.
3. Permitted Uses & Disconnection – where a retailer is supplying recycled water that requires users to comply with a list of permitted uses, the documents, as prepared by the Commission, do not make allowance for the disconnection of a service where a customer has repeatedly misused or been found to have committed a material breach of those permitted use rules.
4. Disconnections – no reference is made to disconnecting a service where a Separation Audit is invalid and/or outdated and the customer refuses to have the audit conducted or where the customer commits a material breach of the Water Industry Act or allotment infrastructure is deemed unfit or unsafe.
5. Separation Audits – The proposed documents make no reference to a retailers requirement for separation audits to be conducted on properties every 5 years or upon sale of the property, whichever occurs first. These audits are considered imperative where a recycled water service is provided to a residence and the high risk of plumbing works being conducted by inexperienced and/or unqualified plumbing contractors leads to an interconnection of recycled and drinking water supplies.
6. Property Sale – The proposed documents lack reference, or requirement, of the landowner to notify the retailer of a property sale. A property sale would require a meter reading, apportionment of account between vendor and buyer, and forwarding address information to issue final account to vendor.

7. Undercharging for Illegal Use or Tampering – documents should also incorporate the word ‘tampering’ with Clause 9.2 of the Supply Contract.
8. Overcharging – Clause 19.2 of the Supply Contract only provides only for a credit to be issued to a customer account in the event of having been overcharged. This should also include a refund if the customer chooses so as to align with 17.4 (b) (ii) of the proposed Sale Agreement.
9. Flexible Payment Plans – have been noted in the proposed documents but reconsideration should be given to written confirmation/acceptance of the payment plan by the hardship customer. Relief should be considered for the retailer where the customer has broken more than 2 payment arrangements within a 12 month period. Retailers, and ultimately other end users, should be protected from having to continue providing a product at a loss where the customer is deliberately avoiding payment. Further, Retailers should not be required to approve of Financial Hardship payment plans where two previous plans have been breached by the customer without notification to the retailer prior to the breach. Whilst it is understood this is covered under the Ministers Hardship Policy, Council believes these additional elements could be included within a Supply Contract without detriment or degradation to the Policy.
10. Late Payment Fees – are not noted in either document.
11. Minimum Flow Rate – where a restriction device has been installed at a property in accordance with Clause 24 of the proposed Supply Contract, the document does not note a ‘minimum flow rate as required by the National Guidelines’ to provide the consumer with regulated information on the actual impact of a restriction device.
12. Flow Testing – The proposed documents make no reference to a customer being able to request the retailer to test the flow rate of the supply where the customer believes a meter set, or other infrastructure, may be impeding the flow rate. The process of how this is to be dealt with should also be included.
13. Property Access for the Purpose of Meter Reading – Charles Sturt provides a date for the next meter reading on each account. Where a retailer provides this meter reading notification it should be considered sufficient advice to the customer for notification of property access. In the current format of the documents, this does not appear to be the case.
14. Water Industry Officer Identification – there is no reference, in either document, advising customers that Water Industry Officers are to display identification when attending properties for inspections, for meter reading purposes or for other purposes relating to the water industries infrastructure.
15. Altering, Interfering & Tampering with Infrastructure – The documents should, but do not, make any reference to a customer being prohibited from altering, interfering or tampering, or allowing another parties conduct to do so, with any infrastructure including meter sets, connections and supply lines within the boundary line prior to the meter set.

16. Damage to Infrastructure – No provisions are made for retailers to require a customer to remove overgrowth and/or trees that are suspected of, or observed to be, causing damage to the retailers infrastructure.

17. Tenants Advice – as most retailers hold accounts with landowners and not tenants, it would be important that the account holder was required by either document to notify their tenants of the connection of recycled water and the permitted uses etc.

18. Licenced Tradespersons – neither document provides advice to a land owner that current legislation (Water Industry Act 2012, Pt 7, Sec 67) requires plumbing works to be undertaken by a South Australian licenced/registered plumber. Many customers would be unaware of this requirement unless they had read the Act, but most customers will read a Supply Agreement or Customer Charter. The chances of interconnection of water supplies within a building are proportionally higher when plumbing work is conducted by either an unregistered, unlicensed or inexperienced persons.

19. Signage – neither document requires customers to maintain appropriate warning signage or removable fittings where lost, damaged or defaced. This is more important for recycled water and sewerage services and non-compliance heightens the risk of improper use.

20. Replacement of Fittings – The proposed documents do not note an owner being prohibited from removing or replacing infrastructure located on their allotment including meters, taps or fittings with other apparatus that has not approved for use by the relevant technical regulations.

21. Property Dangers – In order to protect Water Industry Officers/meter readers from dangers, customer should be required to advise retailers of any dangers present at the property that may cause damage or injury to officers ie. dogs on property, self-locking gates.

22. Indemnity to Retailer – documents do not provide indemnity in relation to an owners use of water services on their property and possible outcomes to visitors or occupants where water is used outside of any retailers permitted uses.

23. Termination – the proposed Supply Contract Clause 7.2(a) allows for service termination by personal contact. This should not be included – a service could potentially be disconnected with malicious intent by someone purporting to be the account holder. If only written requests, including email, were accepted it would provide certainty of identification and an evidentiary trail for the retailer but minimising bureaucracy when disconnecting an essential service to a property.

24. Obligations to Supply – this portion of the documents should be clarified further to assist retailers where they are unable to supply a service due to distance from mains, inappropriate topography, and inappropriateness of water service for customers proposed services.

25. Payment Methods – Direct Debit should not be enforced for Minor retailers where the cost of administration would unduly cause increased administration costs apportioned to other users. Other payment methods such as credit card payment accepted over the phone or

online payments where the retailer can offer online payment services (administration costs of online payments is considerably less than managing direct debits) should be considered appropriate to meet the retailers code requirements.

Final Review

Charles Sturt requests the Commission to fully consider the impact, to retailers and consumers, of introducing mandatory Supply Contracts and Customer Charters to water retailers in the Minor & Intermediate Class. And to further consider what assistance, financial and otherwise, the Commission would be willing to offer retailers to assist in administration and consumer advise/education of the new documents were they to be introduced in their current form.

Yours sincerely,



Paul Sutton

General Manager – Corporate Services