



# Subsequent Determination

## Subsequent Determination to vary the 2013-2017 Price Determination for minor and intermediate retailers

Draft for consultation

To apply from 1 July 2017

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# Table of contents

- 1 General..... 1
  - 1.1 Authority..... 1
  - 1.2 Term..... 1
  - 1.3 Application..... 1
  - 1.4 Definitions and interpretation ..... 1
- 2 Determination..... 3
  - 2.1 Statement of Reasons..... 3
  - 2.2 Variation ..... 4
  - 2.3 Limitation of variation..... 4

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# 1 General

## 1.1 Authority

- 1.1.1 The **Price Determination** has been made pursuant to the price determination powers of the **Commission** under Part 3 of the Essential Services Commission Act 2002 as authorised by Part 4, Division 3 of the Water Industry Act 2012.
- 1.1.2 Pursuant to section 26(8) of the Essential Services Commission Act 2002, the **Commission** can vary the **Price Determination** by subsequent determination.

## 1.2 Term

- 1.2.1 This subsequent determination has effect for the period from 1 July 2017 up to and including 30 June 2018.

## 1.3 Application

- 1.3.1 This subsequent determination varies the **Price Determination**, which applies to all **licensees** (unless otherwise determined by the **Commission**).

## 1.4 Definitions and interpretation

- 1.4.1 In this subsequent determination words appearing in bold like **this** have the following meaning:

|   |   |
|---|---|
| <b>Commission</b>                                   | means the Essential Services Commission, a statutory body established under the Essential Services Commission Act 2002  |
| <b>Inquiry</b>                                      | means the <b>Commission's</b> inquiry into regulatory arrangements for small-scale and off-grid water, sewerage, gas and electricity services   |
| <b>licensee</b>                                     | means the holder of a licence issued by the <b>Commission</b> under the Water Industry Act 2012 authorising the provision of <b>retail services</b> , other than the South Australian Water Corporation established under the South Australian Water Corporation Act 1994   |
| <b>National Water Initiative Pricing Principles</b> | means the National Water Initiative pricing principles published by the National Water Commission   |
| <b>Price Determination</b>                          | means the price determination for minor and intermediate retailers which regulates conditions relating to prices for <b>retail services</b> provided by <b>licensees</b> , made by the <b>Commission</b> pursuant to Part 3 of the Essential Services Commission Act 2002 and the Essential Service Commission Regulations 2004, as authorised by Part 4, Division 3 of the Water Industry Act 2012 |

|                          |  |
|--------------------------|--|
| <b>retail services</b>   | has the same meaning as is given to that term in the Water Industry Act 2012 |
| <b>sewerage services</b> | has the same meaning as is given to that term in the Water Industry Act 2012 |
| <b>water services</b>    | has the same meaning as is given to that term in the Water Industry Act 2012 |

1.4.2 In this subsequent determination, unless the context otherwise requires:

- (a) headings and footnotes are for convenience or information only and do not affect the interpretation of this price determination
- (b) words importing the singular include the plural and vice versa
- (c) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency and vice versa
- (d) a reference to a clause or appendix is to a clause or appendix of this determination
- (e) a reference to any statute includes all statutes varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, ordinances, by-laws and determinations issued under that statute
- (f) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement of or novation of, that document or that provision of that document, and
- (g) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns.

## 2 Determination

### 2.1 Statement of Reasons

- 2.1.1 In June 2013, the Commission made its first **Price Determination** to apply to **licensees** for the period 1 July 2013 up to and including 30 June 2017. In making the **Price Determination**, the **Commission** had regard to the factors set out in section 25(4) of the Essential Services Commission Act 2002 and Part 4 of the Water Industry Act 2012.<sup>1</sup>
- 2.1.2 The **Price Determination** requires **licensees** to comply with the **National Water Initiative Pricing Principles** when charging for the supply of **water services** and **sewerage services** and to report to the **Commission** on how this requirement is complied with.<sup>2</sup>
- 2.1.3 The **Commission** considered that the **Price Determination** was required for the following key reasons:
- 2.1.3.1 To establish a clear understanding of pricing issues applicable to **water services** and **sewerage services** by ensuring that prices for these **retail services** were made transparent to customers and to the **Commission**.
- 2.1.3.2 To recognise that, while many **licensees** were implementing reforms to enable the full recovery of efficient costs associated with the provision of **retail services**, some **licensees** were finding this transition a challenge.
- 2.1.4 As the period of the **Price Determination** is due to expire on 30 June 2017, the **Commission** is proposing to vary clause 1.2.1 of the **Price Determination**, by this subsequent determination, to extend its operation for an additional year, from 1 July 2017 to 30 June 2018.
- 2.1.5 In proposing an extension to the current **Price Determination**, the **Commission** considers that there have been no material changes to market conditions that justify the cessation of price regulation by the Commission. The reasons for the making of the **Price Determination** remain relevant.
- 2.1.6 In addition, the **Commission** is currently undertaking the **Inquiry**, under which it is reviewing the regulatory framework that applies to **licensees**, including its approach to price regulation. The extension of the **Price Determination** will allow the **Commission** to undertake public consultation on proposed changes to the current regulatory framework through the Inquiry process beyond 30 June 2017, and assist with the smooth transition to any adopted changes taking effect.

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<sup>1</sup> The **Price Determination** and the statement of reasons for the making of it are set out in the **Commission's** final decision in relation to the Economic Regulation of Intermediate and Minor Retailers of Water and Sewerage Services, which can be found at <http://www.escosa.sa.gov.au/projects-and-publications/projects/water/economic-regulation-of-minor-and-intermediate-water-retailers>.

<sup>2</sup> While the **National Water Initiative Pricing Principles** do not expressly apply to **sewerage services**, in making the **Price Determination**, the **Commission** considered consistency in price regulation between all **retail services** be promoted where practicable and that **sewerage services** be treated in a like manner to **water services** for the term of the **Price Determination**.

- 2.1.7 The **Commission** is also proposing to reduce the prescriptive nature of the reporting requirements set out in clause 2.3.1 of the **Price Determination**. While the **Commission** remains of the view that **licensees** should be able to demonstrate compliance with the **National Water Initiative Pricing Principles** by reporting to the **Commission** to that effect, the detail of such requirements is more appropriately specified in one of the **Commission's** industry guidelines, rather than in the **Price Determination** itself.<sup>3</sup>
- 2.1.8 The **Commission** is therefore proposing to vary clause 2.3.1 of the **Price Determination**, by this subsequent determination, to reflect this position.

## 2.2 Variation

- 2.2.1 From the date this subsequent determination takes effect, the following clauses of the **Price Determination** are varied as follows:
- (a) Clause 1.2.1
- "1.2.1 This **determination** has effect for the period from 1 July 2013 up to and including 30 June 2018."*
- (b) Clause 2.3.1
- "2.3.1 A retail **licensee** must, if required by the **Commission**, provide information in accordance with the requirements of any applicable guidelines issued by the **Commission**."*

## 2.3 Limitation of variation

- 2.3.1 For the avoidance of doubt, in all other respects, the terms of the **Price Determination** are confirmed.

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<sup>3</sup> The **Commission** has made Water Industry Guideline No. 3 – Water Regulatory Information Requirements for Minor and Intermediate Retailers which currently applies to **licensees** and is used for this purpose.



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