

6 December 2018

Mr Adam Wilson
Chief Executive
Essential Services Commission of South Australia
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Dear Adam

2019 Review of Water Third Party Access Regime

SA Water is pleased to have the opportunity to provide comments on the review of the Third Party Access (TPA) Regime (the Regime) established under the *Water Industry Act 2012*. The Regime offers parties interested in accessing water and wastewater infrastructure the assurance of timely, consistent and reliable information, and a formal process for negotiation and dispute resolution.

Prior to the introduction of the Regime, SA Water had entered into 85 off-peak and 53 peak water third party access arrangements. SA Water welcomed the introduction of the Regime and continues to work with interested parties to negotiate agreements that are in the best interests of access seekers and SA Water's existing customers.

The consultation paper states there have been no successful negotiations under the Regime since it was established in July 2016. In our view this is not reflective of the effectiveness of the Regime or SA Water's willingness and ability to provide access when it is sought. The Regime is intended to establish a formal process for provision of standardised information for access seekers, as well as to protect interested parties in the instance of disputes arising from unsuccessful initial negotiations.

SA Water has demonstrated through the establishment of five voluntary access agreements since the Regime came into effect that access seekers are not restricted to following the formal Regime when negotiating with SA Water. In addition to the five agreements established, several other agreements are currently in negotiation outside of the Regime. That is not to say that the Regime is not valuable, or necessary in setting standardised processes and rights for access seekers regarding Third Party Access to infrastructure.

The Water Industry Act encourages competition in the market for the provision of water and wastewater services in South Australia. In the 5 years since the Act took effect, there are 70 licensed retail water and/or sewerage service providers. To encourage equality of opportunity for further investment in South Australia, we believe it is crucial that the Regime be continued and further expanded to include all infrastructure of all licensed water and/or sewerage infrastructure operators. The Regime currently specifies that access arrangements only apply to infrastructure owned and operated by SA Water, which is potentially inefficient for that other infrastructure, and is not representative of a level playing field. Customers of these services may be unable to benefit from access arrangements that do not involve non-SA Water assets. These are mostly local councils, with a small and developing number of private businesses in the sector that help to bring competitive pressure to all participants for the ultimate benefit of customers.

Access Regimes are intended to promote operational investment and effective competition, and not unduly disadvantage either access seekers or existing customers served by the relevant infrastructure. When considering the Regime in 2015, the Parliament was keen to ensure that there would be no misuse of market power by SA Water, resulting in a negative impact on prices for customers. To overcome this SA Water determines prices using the *retail-minus methodology* unless otherwise approved by the Minister. The state-wide pricing policy for SA Water's drinking water and sewerage services ensures customers pay the same price, regardless of location. We recommend this methodology be maintained for any ongoing Regime as it incentivises efficient competition.

SA Water is committed to ensuring that the customer is at the heart of everything we do, and recognises that for some customers, their interests are better served by indirect access arrangements to industry infrastructure. SA Water will continue to promote and negotiate with interested parties on efficient and effective access arrangements both within and outside of the Regime where practicable. We welcome the assurance of standard practices and protection for interested parties that the Regime offers to encourage investment in South Australia and recommend that the Regime remain in place in to the future, with a wider application to all industry licensees and infrastructure.

If you have any queries about this submission please contact Richard Cawley, Senior Manager, Regulation, by phone 08 7424 1624 or email Richard.Cawley@sawater.com.au.

Yours sincerely



Roch Cheroux
Chief Executive