



Subsequent Determination

Draft Subsequent Determination to vary the 2013-2017 Price Determination for Minor and Intermediate Retailers

To apply from 1 July 2018

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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 2018 until the earlier of:
- (a) the date of commencement of a new price determination made by the **Commission** under section 25(1) of the Essential Services Commission Act 2002, in accordance with section 35(1) of the Water Industry Act 2012, and
 - (b) the date the **Price Determination** is revoked by the **Commission** under section 26(7) of the Essential Services Commission Act 2002.

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:

Commission	means the Essential Services Commission, a statutory body established under the Essential Services Commission Act 2002.
Inquiry	means the Commission's inquiry into regulatory arrangements for small-scale and off-grid water, sewerage, gas and electricity services.
licensee	means the holder of a licence issued by the Commission under the Water Industry Act 2012 authorising the provision of retail services , other than the South Australian Water Corporation established under the South Australian Water Corporation Act 1994.
National Water Initiative Pricing Principles	means the National Water Initiative pricing principles published by the National Water Commission .

Price Determination	means the price determination for minor and intermediate retailers which regulates conditions relating to prices for retail services provided by licensees , made by the Commission 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 (as varied from time to time).
retail services	has the same meaning as is given to that term in the Water Industry Act 2012.
sewerage services	has the same meaning as is given to that term in the Water Industry Act 2012.
water services	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 subsequent 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 subsequent determination or the **Price 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 2017.¹
- 2.1.2 The key requirement of the **Price Determination** is that **licensees** must 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.²
- 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**, this transition posed challenges for a number of **licensees**.
- 2.1.4 In August 2016, the **Commission** commenced the **Inquiry**, under which it is reviewing the regulatory framework that applies to **licensees**. One of the key areas being considered as part of the **Inquiry** is the form of price regulation to be applied to **licensees**.
- 2.1.5 In June 2017, the **Commission** released a subsequent determination to vary the term of the **Price Determination** by extending it for a further 12 months, to 30 June 2018. The **Commission** extended the term of the **Price Determination** to allow it to develop proposals for, and undertake public consultation on, potential changes to the current regulatory framework applying to **licensees**. At this time, the **Commission** considered that it would be in a position to release and consult with **licensees** on proposed changes identified through the **Inquiry** process prior to 30 June 2018.
- 2.1.6 However, the **Inquiry** remains ongoing and the **Commission** has formed the view that it is appropriate to extend the current **Price Determination** until such time as the **Inquiry** has been completed and a public consultation process has occurred in relation to any new price determination (or variation to the existing **Price Determination**) necessary to give effect to the **Inquiry's** findings.
- 2.1.7 Further, and subject to the foregoing, the **Commission** considers there have not been significant changes to market conditions nor concerns with the current **Price Determination** identified so as to justify any material changes to the **Price Determination** (or the form of price regulation it imposes) at this time. Accordingly,

¹ 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, <http://www.escosa.sa.gov.au/projects-and-publications/projects/water/economic-regulation-of-minor-and-intermediate-water-retailers>.

² 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**.

the Commission has determined that the reasons for the making of the **Price Determination** remain relevant and it should continue to apply until such time as a new price determination is made (following the conclusion of the **Inquiry**) or there are otherwise cogent reasons to revoke it. The timing of any material changes to the **Price Determination** will be largely dependent on the findings of the **Commission's Inquiry**, which will be subject to public consultation and stakeholder feedback.

2.2 Variation

2.2.1 From the date this subsequent determination takes effect, the following clause of the **Price Determination** is varied as follows:

Clause 1.2.1

"1.2.1 This *determination* has effect for the period from 1 July 2013 until the earlier of:

- (a) the date of commencement of a new price determination made by the *Commission* under section 25(1) of the Essential Services Commission Act 2002, in accordance with section 35(1) of the Water Industry Act 2012, and
- (b) the date this *determination* is revoked by the *Commission* under section 26(7) of the Essential Services Commission Act 2002."

2.3 Limitation of variation

2.3.1 For the avoidance of doubt, in all other respects, the terms of the **Price Determination** (as varied from time to time) are confirmed.

This subsequent determination was made by the Commission on [tbc] 2018 pursuant to Part 3 of the Essential Services Commission Act 2002, as authorised by Part 4, Division 3 of the Water Industry Act 2012.

The **COMMON SEAL** of)
the **ESSENTIAL SERVICES**)
COMMISSION of South)
Australia was hereunto affixed)
by authority of the **ESSENTIAL**)
SERVICES COMMISSION and)
in the presence of:)

.....
Commissioner

.....
Date



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