



# Minor and Intermediate Retailers Regulatory Performance Report 2014-15

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Regulatory Performance Report 2014-15 should be addressed to:**

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## Glossary of terms

TERM	DESCRIPTION
Commission	Essential Services Commission
CWMS	Community Wastewater Management System
ESC Act	Essential Services Commission Act 2002
kL	Kilolitres
Minister's hardship policy	Residential Customer Hardship Policy for Minor and Intermediate Retailers
Minor and Intermediate Retailers	Water and sewerage service retailers with 50,000 or fewer connections
NWI	National Water Initiative
EWOSA	Energy and Water Ombudsman SA
Water Guideline No. 1	Water Industry Guideline 1 – Compliance Systems and Reporting
Water Retail Code	Water Retail Code for Minor and Intermediate Retailers
WI Act	Water Industry Act 2012

## Executive summary

The Essential Services Commission (**Commission**) has functions under the Water Industry Act 2012 (**WI Act**) for licensing, consumer protection, performance monitoring, compliance and retail pricing. The WI Act applies to all water and sewerage service retailing operations, regardless of the number of customers to whom those services are provided. This includes services provided by SA Water, Local Government and private operators.

The Commission reports annually on the performance of water and sewerage service retailers with 50,000 or fewer customers (**Minor and Intermediate Retailers**) in delivering water and sewerage services to South Australian residential and business consumers. This is the Commission's third annual report on the performance of Minor and Intermediate Retailers, and details their compliance with the consumer protection and pricing regulatory requirements. A separate report on SA Water can also be found on the Commission's website.

There are 63 licensed Minor and Intermediate Retailers, providing drinking water services to approximately 5,700 customers and sewerage services to around 89,000 customers. The majority of retailers are local councils; however, seven private companies are now licensed to provide water or sewerage retail services to approximately 1,700 customers in South Australia.

Economic regulation of Minor and Intermediate retailers began in 2013, and the Commission continues to recognise the transitional nature of the initial regulatory period (until 30 June 2017) under the consumer protection and pricing framework. Over time, retailers are more actively engaging with the Commission on compliance with regulatory requirements, such as undertaking analysis to identify the extent of current cost recovery of services and developing cost reflective prices. This is providing the opportunity for better outcomes for customers.

The Commission recognises that some regulatory requirements reflect current practices, including similar requirements under the Local Government Act, but other requirements are more challenging. Accordingly, the Commission's main focus for the remainder of this regulatory period remains on working collaboratively with retailers on transition to compliance with the regulatory requirements.

The Commission's key observations in regard to Minor and Intermediate Retailers' performance during 2014-15 are:

- ▶ The scale and scope of water and sewerage services offered by retailers varies considerably.
- ▶ The cost of providing drinking water and sewerage services varies between retailers resulting in a spread of customer prices across retailers. In 2014-15, estimated residential water bills ranged between \$538 and \$1,320. For sewerage services, estimated bills ranged between \$175 and \$886.
- ▶ Fifty eight percent of Minor and Intermediate Retailers reported income covering operating costs and depreciation. Of the retailers that reported operating deficits, many are still transitioning to recover the cost of service provision, with prices being gradually adjusted so as to limit the price shock to customers.
- ▶ The timeliness and quality of annual reports have improved and retailers are demonstrating a better understanding of, and compliance with, their regulatory obligations.
- ▶ A small number of retailers are still unable to report against some of the performance metrics set by the Commission. The Commission will continue to work with those retailers to ensure they will have processes in place that will allow accurate data to be reported in future years.

# 1 Introduction

The Essential Services Commission (**Commission**) is a statutory authority established as an independent economic regulator and advisory body under the Essential Services Commission Act 2002 (**ESC Act**).

The Commission has economic regulatory responsibility in the water and sewerage, electricity, gas, maritime and rail industries, conducts formal public inquiries and provides advice to Government on economic and regulatory matters. The ESC Act, together with various industry Acts, provide the Commission with those regulatory and advisory powers and functions.

Under the ESC Act the Commission has the primary objective of:

‘...protection of the long term interests of South Australian consumers with respect to the price, quality and reliability of essential services’.

The ESC Act, the WI Act and the regulations under the WI Act establish the Commission’s regulatory powers and functions in relation to the water and sewerage industries.

The Commission’s role includes the licensing of water and sewerage retail service providers, service standard setting, consumer protection, retail price regulation and performance monitoring and reporting.

## 1.1 Purpose

The Commission publishes annual regulatory performance reports for Minor and Intermediate Retailers (licensees under the WI Act) to inform stakeholders and consumers of regulatory performance outcomes. Reporting of service and operational performance outcomes helps provide greater transparency of these matters to Minor and Intermediate Retailers’ customers.

This report covers regulatory outcomes for Minor and Intermediate Retailers for the period 1 July 2014 to 30 June 2015.

## 1.2 Regulation of the water and sewerage service industry

The WI Act commenced on 1 July 2012 and governs all water industry entities providing ‘retail services’ to South Australian customers. It establishes the regulatory framework for the water and sewerage industry covering economic regulation, technical regulation, water planning and customer complaint handling.

The Commission’s regulatory role includes industry licensing, consumer protection and retail pricing (Table 1). It has no role in environmental, health or social policy. Those matters are addressed by other regulators and Government agencies such as the Environment Protection Agency, SA Health and the Department for Communities and Social Inclusion.

Table 1: Commission's regulatory functions in the water industry

Legislation	Regulatory functions
Water Industry Act 2012	Water and sewerage retail service providers: <ul style="list-style-type: none"> <li>▶ licensing</li> <li>▶ retail price regulation</li> <li>▶ consumer protection</li> <li>▶ service/reliability standard setting</li> <li>▶ performance monitoring and reporting</li> </ul>

As a condition of their retail licences, Minor and Intermediate Retailers are required to comply with a Regulatory Determination and the consumer protection measures set by the Commission. Those regulatory obligations are summarised below:

- ▶ **Water and sewerage services prices** – the Regulatory Determination sets out the pricing principles that Minor and Intermediate Retailers must comply with when developing their prices. Retailer prices should reflect the full and efficient costs of service provision, to ensure customers pay a fair price and the service is financially sustainable.
- ▶ **Consumer protection measures** – the Water Retail Code for Minor and Intermediate Retailers (**Water Retail Code**) sets out the behavioural standards and minimum requirements to be complied with by Minor and Intermediate Retailers when dealing with their customers. It also details retailers' requirements in respect of consumers of retail services in tenancy arrangements who are, nevertheless, granted limited consumer protections, but do not have a direct contractual relationship with a retailer.

### 1.3 Overview of water industry

The WI Act gives the Commission broad regulatory powers and functions within the South Australian water industry related to economic regulation of water and sewerage services. The WI Act applies to all water and sewerage retailing operations, with three retail licence classes:

- ▶ **Major** – more than 50,000 customers (currently only SA Water).
- ▶ **Intermediate** – between 500 and 50,000 customers (37 licences).
- ▶ **Minor** – fewer than 500 customers (26 licences).

Collectively, the retailers licensed under the WI Act provide drinking water services to approximately 756,000 customers and sewerage services to approximately 676,000 customers in South Australia. SA Water is the largest retailer, servicing over 99 percent of total drinking water customers and 87 percent of total sewerage customers in South Australia.

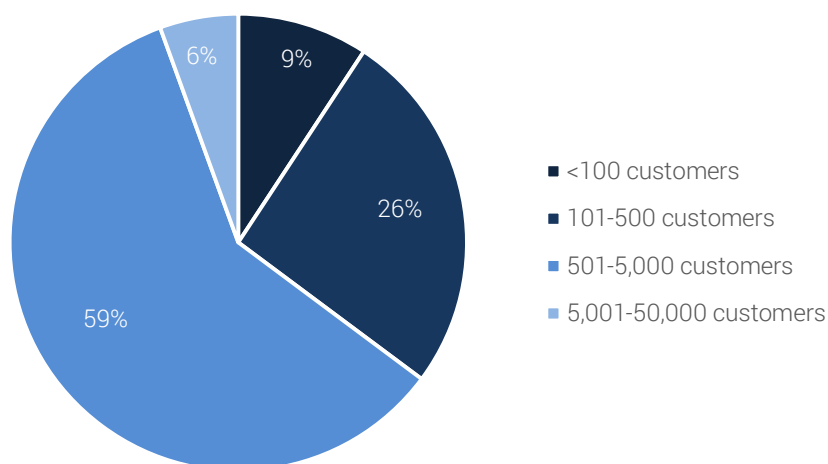
At 30 June 2015, the Commission had licensed 63 Minor and Intermediate Retailers. Of those:

- ▶ Fifty two are licensed to provide sewerage services (through either a Community Wastewater Management System (**CWMS**) or a sewer system) to around 89,000 customers (serving about 13 percent of the State's population). Of these retailers, 49 are council-run schemes and three are private companies.

- ▶ Fourteen are licensed to provide drinking water services to around 5,700 customers (serving less than one percent of the State’s population, with over half located in Roxby Downs and Coober Pedy). Of these retailers, ten are council-run schemes and four are private companies.
- ▶ Twenty three are licensed to provide non-drinking water services to around 2,100 customers.
- ▶ Seven private companies provide water or sewerage retail services to approximately 1,700 customers in South Australia.

In terms of scale, the majority of the retailers supply services to between 501 and 5,000 customers, as shown in Figure 1.

Figure 1: Minor and Intermediate Retailers by number of water and sewerage services customers





## 2 Pricing

The South Australian Government is a signatory to the National Water Initiative (NWI), which was agreed to in 2004 by the Council of Australian Governments. The NWI included a number of reforms which aimed to increase the efficiency of Australia's water sector. One objective of the NWI was to improve price setting for water services, and this has resulted in the development of a set of pricing principles relating to cost recovery, pricing, transparency and other matters.

The Regulatory Determination that applies to Minor and Intermediate Retailers provides that retailers are responsible for determining their water and sewerage service prices. However, they must take certain pricing principles into account when setting their water and sewerage (including CWMS) prices. Those pricing principles (adopted from the NWI Pricing Principles)<sup>1</sup> seek to promote cost recovery, pricing transparency and other related matters.

The Commission monitors the application of the pricing principles through annual reports submitted by retailers in respect of the following matters:

- ▶ A self assessment of compliance with the pricing principles (Pricing Policy Questionnaire).
- ▶ Financial data on the revenue, costs and assets employed relating to the retail service (Regulatory Accounting Statements).
- ▶ How prices were developed (Pricing Policy Statement).
- ▶ Prices charged for the current and prior year (Pricing Schedule).

### 2.1 Application of the National Water Initiative Pricing Principles

The Commission recognises that some retailers' current pricing practices are not in line with the NWI Pricing Principles; however, the regulatory determination provides a transitional period for retailers to achieve compliance with those pricing principles by 30 June 2017.<sup>2</sup>

Each year, retailers are required to assess their compliance against each relevant pricing principle. The 2014-15 annual reports submitted by retailers indicate that they are at different stages of implementing the pricing principles, with some more advanced than others.

Sixty four percent of retailers responded that they are compliant with all of the relevant pricing principles. The remaining 36 percent advised that they met some but not all of the relevant pricing principles.

The Commission recognises that the less compliant retailers are still transitioning to achieve compliance with the pricing principles and will continue to assist them where necessary.

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<sup>1</sup> The NWI Pricing Principles cover five main areas, namely: cost recovery, asset valuation, tariff structure, transparency and developer charges.

<sup>2</sup> Further information on the application of the NWI pricing principles (including the interpretation and what a retailer must do to meet those principles) can be found in Appendix 1 of the Water Regulatory Information Requirements for Minor and Intermediate Retailers – Water Industry Guideline No. 3 Explanatory Memorandum available at: <http://www.escosa.sa.gov.au/library/20150930-Water-GuidelineNo3-ExplanatoryMemorandum-WIG3-04.pdf>.

## 2.2 Cost recovery

It is important for all retailers of drinking water, regardless of size and scale, to ensure that prices and revenues are sufficient to recover prudent and efficient costs, as appropriate cost recovery will facilitate the sustainability of the service and ensure that customers are not faced with future price shocks.

The intention of the regulatory framework is not that all Minor and Intermediate Retailers charge the same prices for drinking water and sewerage services, but that they apply a common set of principles in the price setting process.

Each year, Minor and Intermediate Retailers are required to submit annual financial performance information to the Commission for assessment. The financial performance information provides the Commission with a picture of the costs of providing water and/or sewerage services, and any subsidies being applied to those services.

In 2014-15, 58 percent of retailers reported operating income covering operating costs and depreciation with the remaining 42 percent reporting operating deficits. This measure is a reasonable proxy for whether or not retailers are recovering the costs of service provision. Of the retailers that reported operating deficits, many are still transitioning and are gradually adjusting prices to limit the price shock to customers. Others are limited in their ability to recover the cost of service provision (for example, due to a small customer base and/or public benefit reasons).

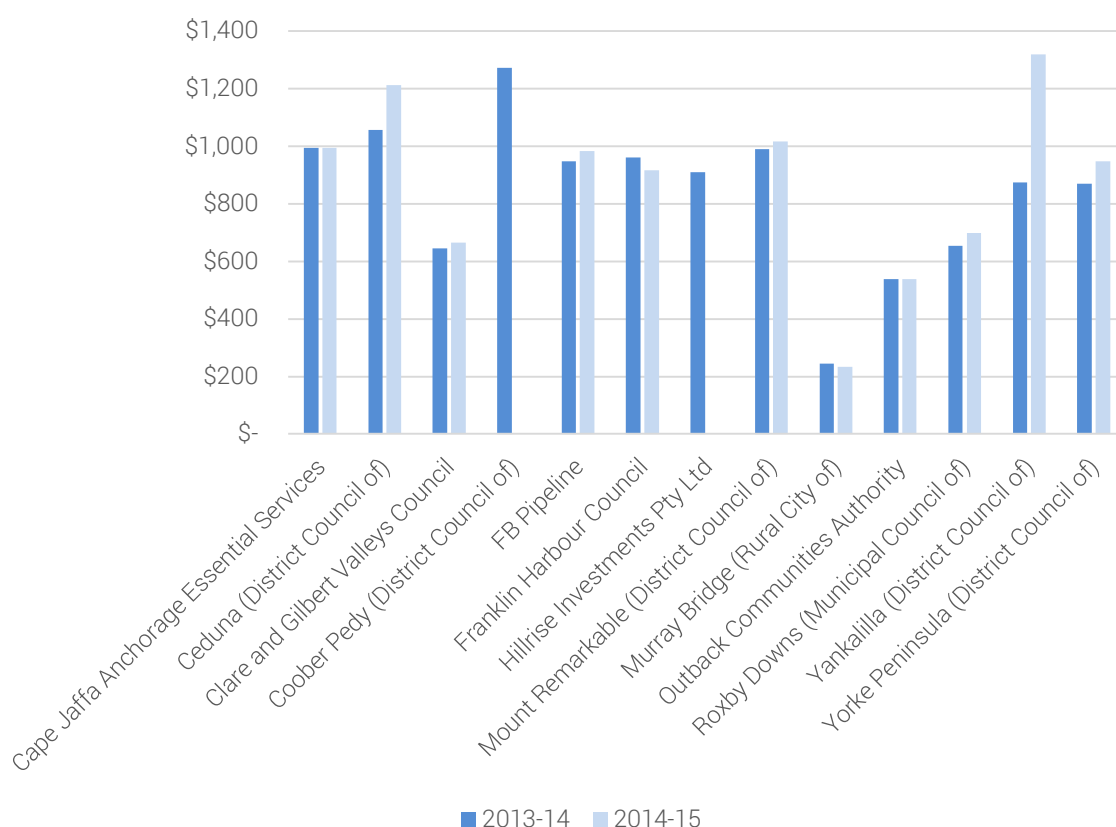
The Commission acknowledges the efforts made by many retailers to better understand their service provision costs and to develop cost reflective prices, and recognises that some retailers are still transitioning to compliance with the cost recovery pricing principles.

## 2.3 Drinking water service prices

Fourteen of the 63 retailers were licensed to provide drinking water services in 2014-15. When comparing drinking water retail prices, it is important to consider the methodology used to set prices (for example, whether prices are set on a cost recovery basis or aligned to SA Water's prices) and the costs of managing each system (for example, number of connections, length of system per connection and quality of the source water). Prices paid by customers will therefore depend on a range of factors.

Figure 2 below shows the average annual residential drinking water bills based on an annual consumption of 200 kilolitres (kL). The average annual charge in 2014-15 ranged from \$538 to \$1,320 (excluding the Rural City of Murray Bridge).

Figure 2: Average annual residential drinking water service bills (\$nominal)<sup>3</sup>



## 2.4 Sewerage services prices

Fifty two of the 63 retailers were licensed to provide sewerage services in 2014-15. When comparing sewerage retail prices, it is important to consider the nature of the service provided (for example, fully seweraged versus CWMS) and the costs of managing each system (for example, number of connections, age of the network, length of system per connection and the topography of the area serviced). Prices paid by customers will therefore depend on a range of factors.

Figure 3 details annual charges (for occupied land only) for all licensed retailers. The average annual charge in 2014-15 ranged from \$175 to \$886. Where charges are based on land value, the average bill is based on either the average value of the properties supplied or the average amount charged to customers. Where different charges apply to separate CWMS operated by one retailer, a weighted average price is calculated (based on the number of connected properties per CWMS).

<sup>3</sup> The Rural City of Murray Bridge supplies metered water to sections of Woodlane. The rates for supply of water are only charged for any usage above 130kL per annum. Fairmount Utilities is licensed to provide drinking water but is not currently retailing. 2014-15 drinking water pricing data for the District Council of Coober Pedy and Hillrise Investment Pty Ltd was unavailable.

Figure 3: Average annual residential sewerage service bills (\$nominal)<sup>4</sup>

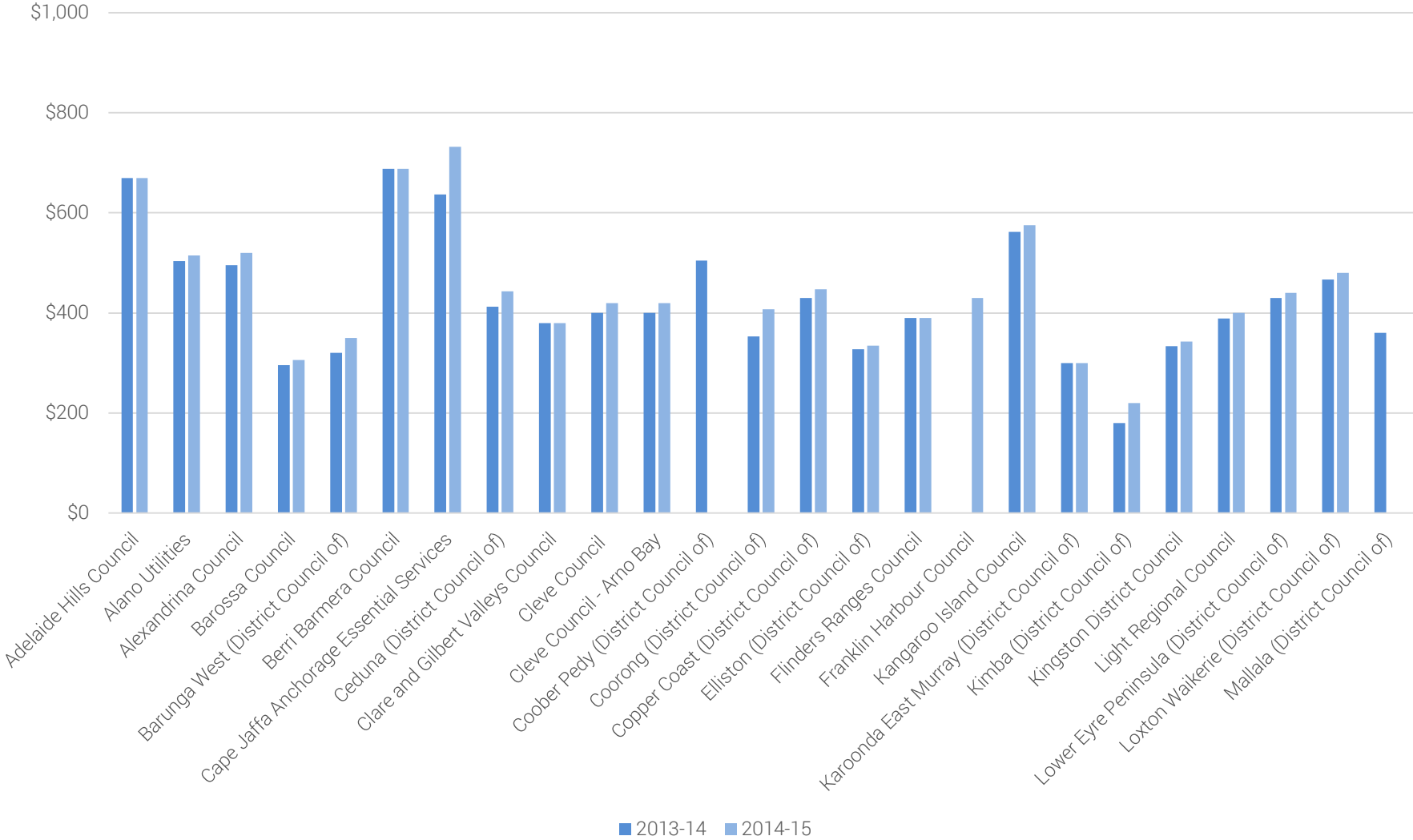
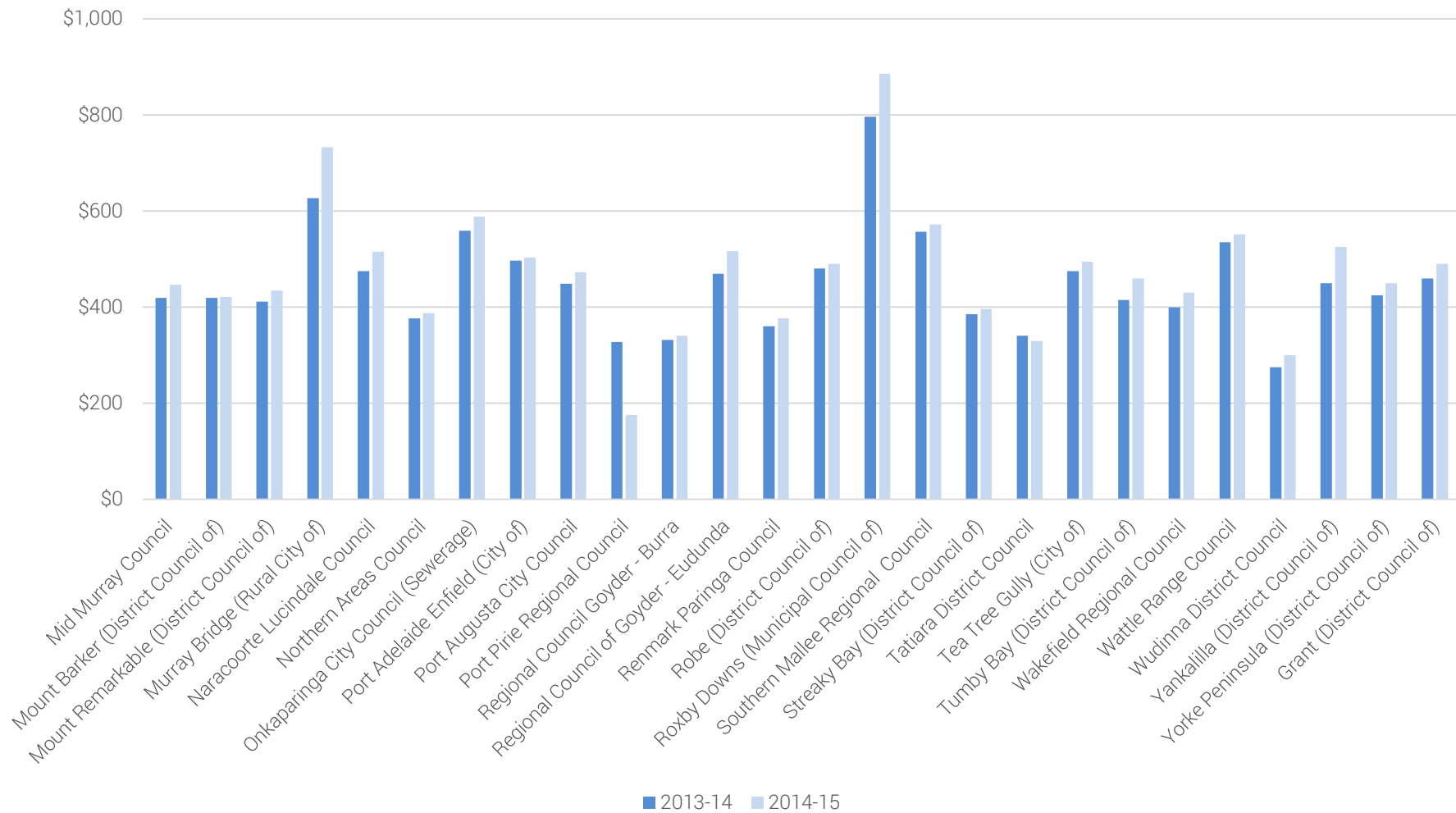


Figure 3: Average annual residential sewerage service bills (\$nominal) (continued)



<sup>4</sup> 2014-15 sewerage pricing data for the District Council of Coober Pedy and District Council of Mallala was unavailable.

## 2.5 Non-drinking water service prices

Twenty three of the 63 retailers were licensed to provide non-drinking water services in 2014-15.

Non-drinking water covers recycled water, stormwater and other water that does not meet drinking water requirements. Such services include delivery of recycled water to residential customers via “purple pipe” networks and the use of recycled water to irrigate public spaces such as parks and sporting grounds (where the water is charged for). About 90 percent of recycled water customers are residential; however non-residential customers use the majority of recycled water.

Non-drinking water prices depend on a range of factors and it is less meaningful to compare the prices due to the variety of services provided by retailers.

### 3 Customer service and financial assistance

As water and sewerage services are essential services, Minor and Intermediate Retailers are required to meet customer needs by providing a high level of customer service and assisting those customers experiencing financial difficulty.

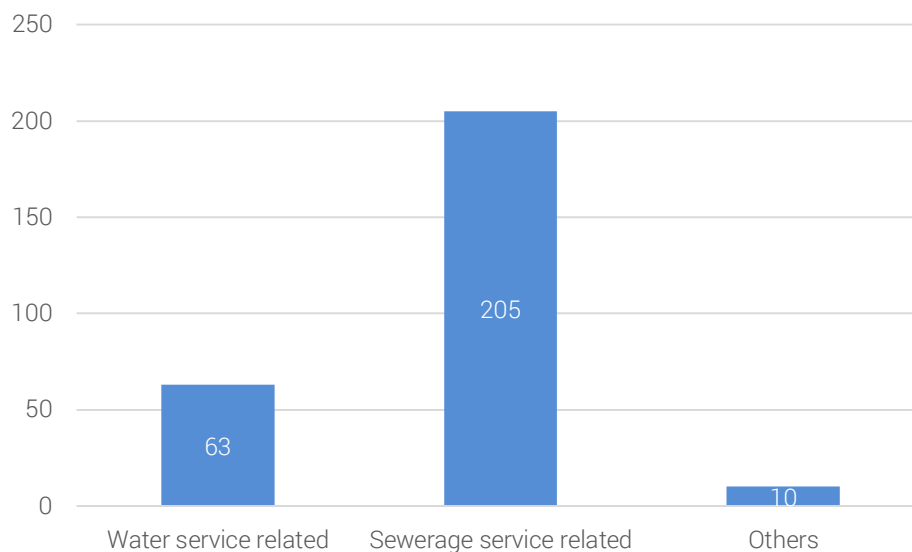
The Water Retail Code is the principal consumer protection document that sets out the behavioural standards and requirements with which retailers must comply when dealing with their customers. It covers the following areas: enquiries, complaint and dispute resolution procedures, hardship programs, payment and payment difficulties, and disconnections and supply restrictions for non-payment.

#### 3.1 Customer service

All Minor and Intermediate Retailers are required to have enquiries, complaints and dispute resolution procedures in place that have been approved by the Commission. These procedures should clearly set out how customers can make an enquiry or complaint about the water and sewerage retail services they receive. At 31 March 2016, 40 retailers had had their procedures approved by the Commission.

During 2014-15, 25 retailers reported receiving a customer complaint. Figure 44 shows that of the 278 complaints received, 74 percent related to sewerage services. Two retailers reported that they do not currently have systems in place to record water or sewerage service related complaints separately from complaints relating to the other services that they provide (compared to five retailers who reported being unable to do so in 2013-14).

Figure 4: Number of complaints



Seven retailers are currently members of the Energy and Water Ombudsman SA (EWOSA) scheme. EWOSA deals with customer complaints that cannot initially be resolved between a retailer and the customer. During 2014-15, EWOSA did not receive any complaints in respect to those retailers. The Ombudsman South Australia deals with general complaints about local councils.

#### 3.2 Debt recovery and customers facing payment difficulties

Minor and Intermediate Retailers must comply with the Water Retail Code's financial assistance requirements. These include offering customers flexible payment arrangements, having customer hardship policies in place and rules governing the circumstances in which water supply may be restricted or debt recovery action commenced.

The framework allows those customers who are willing to pay, but are unable to do so due to financial difficulty, to maintain their supply and avoid restriction or debt recovery action. It requires retailers to actively engage with their customers to assist them in meeting their payment obligations.

However, where a customer is not willing to participate, or ceases making payment for reasons other than financial difficulty, the customer may ultimately face sanctions of restriction or debt recovery. Importantly, in no case may a customer's water supply be disconnected for non-payment of a bill.

### 3.2.1 Hardship program and flexible payment plans

The Minister for Communities and Social Inclusion has developed and published a Residential Customer Hardship Policy for Minor and Intermediate Retailers (**Minister's hardship policy**). Retailers must adopt the Minister's hardship policy or a modified version that has been approved by the Commission. Twenty one retailers had adopted the Minister's hardship policy without modification and a further 21 retailers have had their modified policies approved by the Commission as of 31 January 2016.

The policy outlines a range of processes and programs that a retailer will use, or apply, to assist customers that have been identified as experiencing payment difficulties. Where a customer is participating in a hardship program, a retailer cannot arrange for water restrictions or legal actions to be applied for non-payment.

Retailers that are councils may have a general hardship policy in place that also covers the general rates notice. Councils have the option to apply the Minister's hardship policy to all rated customers or only water and sewerage service customers.

At 30 June 2015, 11 retailers reported that they had 76 residential customers participating in their hardship programs and 28 retailers reported having 4,640 residential customers on a flexible payment arrangement.

Three retailers were unable to separate water and sewerage service customers participating in hardship programs and flexible payment plans from their general rate payers on comparable programs and plans.

### 3.2.2 Debt recovery

Under the regulatory framework, a retailer is not permitted to disconnect a customer's supply of a sewerage service or water service for non-payment of a bill. It may, however, restrict the supply of a water service by constraining the maximum flow of water into a property or may commence debt recovery action for non-payment of a bill (although not both simultaneously), but only as a last resort. Further, a retailer cannot undertake debt collection activity where it has installed a flow restriction device.

During 2014-15, one retailer reported that a single water restriction was applied to a residential customer for non-payment of a water bill. Fourteen retailers reported having commenced legal action against a total of 477 residential customers for non-payment of a water or sewerage bill.

Five retailers were unable to separate whether a legal action was undertaken for non-payment of a water or sewerage service bill or non-payment of general rates as both are billed together.



## 4 Reliability of supply

The Water Retail Code sets quality, safety and reliability of supply requirements for Minor and Intermediate Retailers. Notably, retailers must:

- ▶ provide a reliable supply to customers
- ▶ minimise the frequency and duration of interruptions, and
- ▶ have in place policies, practices and procedures to minimise the impact of unplanned interruptions.

The Commission monitors the following reliability of supply measures (for both water and sewerage services) to assess how well retailers are adhering to these requirements:

- ▶ for unplanned interruptions – number of events, customers affected and the average duration
- ▶ number of main breaks and chokes, and
- ▶ number of sewerage overflow events.

The Water Retail Code allows for the implementation of service standards if required.

The Commission's key observations in regard to Minor and Intermediate Retailers' reliability performance during 2014-15 are:

- ▶ Six drinking water retailers reported a total of 40 unplanned interruptions in 2014-15, affecting 787 customers. Ten water main breaks were reported by four retailers.
- ▶ Eleven sewerage retailers reported a total of 355 unplanned interruptions to customers' supply in 2014-15. Other retailers reported no unplanned interruptions to customers' supply in 2014-15 (including one retailer that was unable to provide supply interruptions data in 2014-15).
- ▶ Most sewerage schemes are CWMS (where a customer has a septic tank on their property) and the incidence of supply outages are expected to be lower than with seweraged systems. Two hundred and forty two sewerage main breaks and chokes were reported.

## 5 Compliance

Under the WI Act, Minor and Intermediate Retailers are required to undertake compliance audits and report on their compliance with applicable legislative and regulatory instruments. The Water Industry Guideline 1 – Compliance Systems and Reporting (**Water Guideline No. 1**) established by the Commission:

- ▶ Encourages regulated entities to actively cooperate in the early reporting and rectification of any identified non-compliance.
- ▶ Uses a risk based approach as far as possible in both compliance monitoring and enforcement, based on the likelihood of a breach of a regulatory obligation and the possible consequences of such a breach.
- ▶ Reserves stronger enforcement action for more serious cases involving wilful or systemic non-compliances with major consequences, or circumstances in which other processes have not had the desired remedial effect.

Retailers must provide annual compliance reports to the Commission in the form set out in Water Guideline No. 1.

### 5.1 Compliance reporting in 2014-15

The Commission has spent considerable time assisting retailers to understand their regulatory requirements and to implement new policies required by the regulatory framework. However, some retailers are yet to meet all the compliance requirements of the regulatory framework. In 2014-15, many retailers did not submit all the required information in their annual compliance reports or did not identify all relevant obligations and provide details of non-compliances.

Retailers are required to put in place processes to ensure that applicable obligations are identified and reported against. Retailers have been provided with feedback on their annual compliance reports and it is the Commission's expectation that future annual compliance reports include all applicable obligations and that all non-compliances are reported.

The main areas of non-compliance by retailers were the requirements to have in place, and utilise, various regulatory documents. These include:

- ▶ **Hardship Policy** – requires adoption of the Minister's hardship policy or seek approval for a modified policy (section 37 of the WI Act).
- ▶ **Dispute Resolution Procedures** – requires approval from the Commission (clause 9 of the water industry licence and clause 3.2 of the Water Retail Code).
- ▶ **Customer Charter** – requires adoption of the Commission's model customer charter or seek approval for modifications to the model customer charter (clause 3.1 of the Water Retail Code).

The Commission will continue to work closely with retailers throughout the remainder of the regulatory period, to assist retailers in achieving compliance with the regulatory framework. In future years, the Commission will be conducting random audits of retailers' processes to ensure compliance with the regulatory framework.

