



Response to the draft report for the 2024 review of the third-party access regime



Government of
South Australia

1 Background

SA Water is a public corporation established under the *South Australian Water Corporation Act 1994* that is wholly owned by the Government of South Australia. As a public corporation, SA Water is required to conduct its operations commercially, unless directed otherwise.

SA Water operates under an economic regulatory framework operated by the Essential Services Commission of South Australia (ESCOSA), which is enabled through the *Water Industry Act 2012* and *Essential Services Commission Act 2002*.

Part 9A of the *Water Industry Act 2012* sets the legislative framework governing third party access to water industry infrastructure, including that owned and operated by SA Water. The *Water Industry Act 2012* also sets out the role of ESCOSA in both regulating and reviewing the third-party access regime.

2 Key points raised in SA Water's 2023 response to the third-party access review by ESCOSA

2.1 The regime is operating effectively.

SA Water supports providing third party access to regulated infrastructure both in the interests of enabling state growth, but also in reducing the cost of regulated water and wastewater services to customers.

Since inception of the regime, no access agreements have required arbitration, nor have any been negotiated using the statutory backstop of the retail minus approach.

2.2 Available supply capacity is variable.

While there may be capacity through a year to enable transportation in declared water infrastructure, this capacity may not be available at all times.

Factors that affect availability include changes in demand from regulated customers over the course of a day as well as changes in climate conditions that change the demand profile across seasons. Works to ensure that assets are operated safely, efficiently and effectively may also impact water availability.

2.3 Climate change and growth will affect availability.

Conceptually, third-party access involves an entity accessing spare capacity within SA Water's regulated infrastructure to transport biologically and chemically compatible water or sewage.

Over time, as regulated customer demand increases, capacity for transportation within existing assets will reduce.

3 Response to specific ESCOSA draft recommendations

3.1 The access regime should remain in effect and be extended by regulation by the South Australian Government for a further five years.

SA Water supports this recommendation.

3.2 Introduction of a consultative review mechanism by which a proponent seeking access, or any other party, could seek to have water or sewerage infrastructure included in, or excluded from, the regime.

SA Water supports in principle the introduction of a transparent mechanism to adjust those assets subject to inclusion in the third-party access regime.

However, SA Water notes that by adding new assets to the third-party access regime additional costs may result for the regulated business in water planning and management, hydrological modelling, or loss of operational flexibility (such as timing of energy use).

SA Water suggests, where considered appropriate, that this should be limited to bulk infrastructure and that regard for the costs of additional access should be considered.

3.3 Increased transparency and clarification regarding how the 'retail minus' methodology is intended to be calculated.

SA Water supports this recommendation in principle.

SA Water notes that the 'retail minus' methodology provides a statutory backstop, which has not been used.

3.4 Introduction of a legislative requirement for SA Water to publish information regarding current and forward projections of capacity and utilisation of declared infrastructure.

SA Water supports this recommendation in principle but notes there are limitations to this approach.

Consistent with SA Water's submission, capacity within infrastructure subject to the third-party access regime will vary day to day and season to season.

Annual utilisation and capacity could be reported, noting that this would not necessarily reflect the availability of the asset for transportation purposes at the time required by the transportation proponent. Forward projections of capacity are highly variable, and therefore considered to be of limited use.

SA Water also notes that providing a water transportation service typically requires a combination of declared infrastructure and non-declared infrastructure, as is the case for water transportation arrangements to major viticulture regions. Some capacity may exist in declared infrastructure, but it may not exist in non-declared infrastructure, limiting the viability of the access arrangement.