

ESCOSA Price Determination and Consumer Protection Framework

Clause	Content	Requirement	Question / Comment
1.1	Initial Regulatory Period (RP1) (1 July 2013-30 June 2017)	- Pricing principles are the matters to be taken into account in setting prices	<ul style="list-style-type: none"> How does the Commission propose to manage "collaborative" relationships during RP1 -it would be useful to have Terms of Reference to guide the relationship with retailers during this period? Will the Commission be providing guidance on the content, depth and feedback mechanism for the proposed interim compliance audit report?
2.4	Other Non Drinking Water and Other Retail Services	In the case of Trade Waste (seen by the Commission as a sewage service) - prudent and efficient costs of meeting health and environmental obligations will be taken into account when reviewing pricing	<ul style="list-style-type: none"> Will the Commission establish a test or advise on criteria for assessing what constitutes a prudent and economically efficient action on the behalf of a retailer as economic efficiency is a very broad concept?
3.2.6	Transparency	Commissions concerns about level of detail provided by annual business plans to meet this requirements and have stated that: -Budget planning and rates mechanisms suitable process for communicating with customers -Pricing information needs to be improved -Commission to work with councils on required level of information	<ul style="list-style-type: none"> Will the Commission consider providing templates outlining the level of detail expected for recycled and stormwater services? Guidance including worked examples of ESCOSA expectations and commentary would be useful. <p>Alternatively</p> <ul style="list-style-type: none"> Can we develop a model for input pricing for forecasting with template reviewed/accepted by the Commission
3.5.1	Determining Beneficiaries	The Commission acknowledges complexity in identifying beneficiaries is acknowledged. Commission satisfied that current practice of costs being partially recouped from users and partially from community is consistent with NWI principles but must be done efficiently and report transparently The Commission further defines cost allocation to beneficiaries by stating: - where recycling is lowest disposal costs - costs to be paid by sewage customers - Industrial, agricultural or Municipal users - costs paid by	<ul style="list-style-type: none"> Can the Commission clarify what constitutes sufficient evidence of willingness to pay eg: commercial contracts? Will the Commission provide worked examples and commentary on Advice on how to allocate costs where beneficiaries include contracted parties and the broader community (ie ratepayers).

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		beneficiaries - If discretionary service - costs paid for by customer base provided WTP has been demonstrated	
3.5.3	Consideration of substitutes	Commission regards that pegged pricing is consistent with NWI principles for recycled and stormwater but not drinking and sewage services. Concern that "significant" over or underpricing may occur	<ul style="list-style-type: none"> Will the Commission provide worked examples of the application of the relevant NWI principles -specifically: <ul style="list-style-type: none"> What would the Commission regard as "significant" in terms of over or underpricing (or the burden of proof) How would the Commission expect the licensee to provide a test of cost effectiveness Provide an understanding regarding the range of profit margins that are acceptable
3.5.5	Cost Recovery	Commission considers that cost recovery based on the NWI Principles allows for sound practice to ensure consumers long term interests are met - they have provided a simplified example of the cost band to be recovered: - Lower limit seen as marginal costs - Upper limit recovers full standalone costs + WTP The Commission also acknowledges the quantification of externalities is a difficult task and will take time to develop.	<ul style="list-style-type: none"> Will the Commission clarify what it regards as the scope of quantification or externalities that should be investigated, costed and reported as part of a retailers regulatory responsibility. It is requested that there is further engagement with the retailers and other parties as deemed necessary to refine the scope of this requirement.
7.1.1	Public Information Disclosure	Minor and Intermediate retailers to make Pricing Schedule and Pricing Policy Statement publically available for each retail service	<ul style="list-style-type: none"> Will the Commission advise the date these documents need to be available to the public and provide a worked example of their content?
7.1.1.1	Pricing Information	As per 7.2.1 but to include information on price movements	<ul style="list-style-type: none"> Will the Commission advise: <ul style="list-style-type: none"> the date these documents need to be available to the public What information is required on price movements - anticipate or actual price drivers (dependant on broader accounting requirements in terms of price build up) Acceptable notification protocols of pricing information eg: <ul style="list-style-type: none"> Letters Website Prior notice timeframes

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7.2	Monitoring of Pricing Outcomes	Commission proposes to undertake price monitoring based on hypothetical billing of 3 customer classes: - Vacant Property - no consumption - low user 20kl/pa - medium user 80kl/pa - high user 150kl/pa	<ul style="list-style-type: none"> • It is suggested that the hypothetical scenarios do not adequately reflect the average consumptions of an alternative water reuse scheme that focusses primarily on irrigation demands (as opposed to dual reticulation, drinking water demands). • Further in many instances, CWMS and some alternative water scheme charges are not calculated volumetrically. It is suggested that the hypothetical scenarios be redefined based on the nature of the scheme and the overall scale eg: <ul style="list-style-type: none"> ○ CWMS ○ Trade Waste service and its capability ○ Dual reticulation demand ○ Urban Irrigation scheme ○ Rural irrigation scheme ○ Commercial/Industry water scheme • It is requested that consideration also be given to the type and quality of the water provided and with regard to other aspects of economic regulation
9	Compliance Reporting	Regular Compliance Reporting is required Currently only applies to SA Water Proposed to be extended to minor and intermediate retailers	<ul style="list-style-type: none"> • It is requested that the Commission undertake a further round of engagement with the minor and intermediate retailers regarding the expectations of regular compliance reporting to assist with the formation of a compliance framework.

ESCOSA Water Retail Code - Minor Retailers

Clause	Requirement	Question / Comment
1.3.2 (c)	<p>Notwithstanding clause 1.3.1, unless otherwise specified by the Commission this industry code will not apply to the sale and supply of a retail service to a customer in circumstances where:</p> <p>(c) the non residential customer commence taking supply of the retail service prior to the commencement of this industry code subject to agreed and documented terms and conditions and continues to take supply subject to those terms and conditions.</p>	<ul style="list-style-type: none"> Will the Commission clarify if the Code can be applied to existing contracts for non-residential customers? What level of notification is deemed sufficient to manage the transition of residential customers from existing contracts to new e.g.: website communication of terms and conditions + reference in annual rates statement
1.8.1	<p>In this industry code works appearing in bold like this have the following meanings: In relation to: - a residential customer, means a customer which acquires retail services primarily for domestic purposes</p>	<ul style="list-style-type: none"> Will the Commission clarify if a Community Title manager is considered a 'residential customer' and/or is this a retail arrangement as in instances for the City of Onkaparinga, the costs associated are passed through to another party ie. the tenant? <p>Similarly for a landlord/tenant relationship, where the service supply agreement is with the landlord who passes on the cost.</p>
2.1.1	<p>Obligation to prepare Customer Charter A retailer must, within 3 months of being granted a licence, develop a Customer Charter and submit it to the Commission</p>	<ul style="list-style-type: none"> Will the Commission clarify if the customer charter requires its approval as per 3.1.1? Will the Commission clarify how the 3 months of being granted a licence will be managed for those parties that currently have licences (awarded January 2013), but the code will not be in place until 6 months post granting? It is anticipated that 3 months will be applied.
2.2.1 (a)	<p>Minimum requirements for contents of a Customer Charter The Customer Charter must contain a plain language guide to the basic rights and obligations of both the customer and the retailer under: (i) this industry code, including the applicable approved service standards; (ii) the standard contract; (iii) the Water Industry Act 2012 and associated regulations (as appropriate); and</p>	<ul style="list-style-type: none"> Will the Commission be releasing a consistent Plain English Guide worked example of a customer charter presenting what is deemed appropriate and likely to gain its approval? What level of notification is sufficient to the customers?

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Clause	Requirement	Question / Comment
	(iv) obligations and particulars of the retailer's privacy practices in accordance with applicable privacy laws;	
2.3.1 (a, b)	<p>If the Commission forms the view that a retailer's Customer Charter requires review:</p> <ul style="list-style-type: none"> - the Commission may direct the retailer to review the customer charter and make variations (or replacement) in accordance with any requirements set out by the Commission; and - the retailer must: <ul style="list-style-type: none"> (i) vary or replace the Customer Charter in accordance with the Commission's requirements; (ii) submit it to the Commission for approval; and (iii) publish the Customer Charter, as approved by the Commission, on the retailer's website as soon as practicable after it has been approved. 	<ul style="list-style-type: none"> • Assuming that the Customer Charter does not require the Commissions approval (reference comment on 2.1.1), can it be approved by the Commission so as to avoid any potential need for variation under this clause?
3.1.2 (f)	<p>Customer enquiry procedures must deal with at least the following matters:</p> <p>(f) any other matter required by the Commission</p>	<ul style="list-style-type: none"> • Will the Commission clarify what other matters may be required by the Commission?
3.3.1	<p>Consumer Communications</p> <p>If a retailer is required under this industry code to provide or issue any document, bill or notice to a customer and that customer has provided to the retailer and electronic mail address and consent for the retailer to access that electronic mail address, the retailer:</p> <p>(a) may send or issue that document, bill or notice to that electronic mail address for that purpose unless otherwise required under this industry code;</p> <p>(b) must be capable of receiving notices by electronic mail from that customer; and</p> <p>must cease using that electronic mail address or the electronic mail format at the customer's request</p>	<ul style="list-style-type: none"> • Will the Commission clarify what type of consent is deemed sufficient to allow for the submission of electronic mail documentation?
4.2.1	<p>A retailer must include details of any fees or charges that a customer will remain liable for under the Local Government Act 1999 including but not limited to where the customer requests a disconnection under clause..... 'Error - reference not found' or clause 14.4</p>	<ul style="list-style-type: none"> • Will the Commission clarify the error cross reference clause?
5.1.1	<p>Advice on government concessions, rebates or grants</p> <p>A retailer must provide to a residential customer or a tenant brought</p>	<ul style="list-style-type: none"> • Will the Commission clarify the extent of the responsibility as far as it relates to this obligation eg: is it expected that the retailer advocate on behalf of the

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	within the definition of customer by regulations any information concerning the availability of government concessions, rebates or grants and the contact details for the government department responsible for the administration of that concession rebate or grant.	<p>consumer in its application for concession, rebates or grants?</p> <ul style="list-style-type: none"> • Will the Commission clarify the scope of the concessions, rebates or grants that are being referred to eg: only those that pertain to the water service? • Will the Commission clarify, is the Water Industry Entity required to proactively search for relevant grants or will the Commission have this information on the ESCOSA website
7.1.1	A retailer must, within 3 months of being granted a licence: (a) adopt the residential customer hardship policy published by the Minister, in accordance with the Water Industry Act 2012; or (b) submit is modified residential customer hardship policy to the Commission, for approval.	<ul style="list-style-type: none"> • Will the Commission clarify how the 3 months of being granted a licence will be managed for those parties that currently have licences (awarded January 2013), but the code will not be in place until 6 months post granting? It is anticipated that 3 months will be applied. • Will the Commission clarify if a hardship policy is required for non-residential customers
7.4.1 (a,b)	Review of hardship policy If the Commission forms the view that a retailer's residential customer hardship policy requires review: (a) the Commission may direct the retailer to review the hardship policy and make variations (or replacement) in accordance with any requirements set out by the Commission; and (b) the retailer must: (i) vary or replace the hardship policy in accordance with the Commission's requirements; and (ii) submit it to the Commission for approval; and publish the hardship policy, as approved by the Commission, on the retailer's website as soon as practicable after it has been approved	<ul style="list-style-type: none"> • Will the Commission clarify what would stimulate a policy review?
9.4.2	A retailer must provide the Commission with details of events where action was required to be taken in accordance with its policies, practices and procedures under clause 9.4.1, upon request by the Commission.	<ul style="list-style-type: none"> • Will the Commission clarify <ul style="list-style-type: none"> ○ when this may be requested, and what is the timeframe for response to a request? ○ Is this a must in every instance or only on request?
9.5.1	Powers under other Acts Nothing in this industry code will prevent the retailer exercising any power, or obligation to comply with any direction, order or	<ul style="list-style-type: none"> • Will the Commission add the Local Government Act 1999 to this section as relevant legislation.

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	requirement under the Emergency Powers Act 1941, Essential Services Act 1981, State Disaster Act 1980 or the State Emergency Services Act 1987, or any other relevant legislation.	
10.1.1 and 10.1.2	<p>Obligation to meet and report on service standards</p> <ul style="list-style-type: none"> - In addition to complying with applicable requirements of health and environmental regulations, a retailer must use its best endeavours to achieve all applicable service standards during each financial year ending on 30 June - A retailer must keep sufficient records to monitor its performance level and to provide the information specified by the Commission in applicable regulatory instruments. 	<ul style="list-style-type: none"> • Will the Commission clarify, what is its understanding of “all applicable service standards” and “applicable regulatory instruments” • Will the Commission provide a worked example of what constitutes sufficient records to monitor performance?
13.2.1 (b)	<p>Prohibitions on water service flow restriction</p> <p>A retailer must not arrange for the supply of a residential customer's water services to be restricted:</p> <p>(b) for non-payment of a bill where the amount outstanding is less than an amount approved by the Commission and the residential customer has agreed with the retailer to repay that amount;</p>	<ul style="list-style-type: none"> • What is the process involved with gaining the approval of the Commission of an amount? And how is the amount likely to be calculated? (Also relevant to 13.2.2 (a)) <p>The intent of the clarification is to gain some understanding regarding the level of liability that should be incurred before escalation is deemed appropriate.</p>
13.2.1 (e)	<p>A retailer must not arrange for the supply of a residential customer's water services to be restricted:</p> <p>where the residential customer has formally applied for assistance from the agencies referred to 5, and a decision on the application has not been made</p>	<ul style="list-style-type: none"> • Will the Commission clarify what is meant by “referred to 5”?
13.2.2	<p>A retailer must not arrange for the supply of a non-residential customer's water services to be restricted:</p> <p>(a) for non-payment of a bill where the amount outstanding is less than an amount approved by the Commission and the non-residential customer has agreed with the retailer to repay that amount;</p> <p>(b) where a non-residential customer has made a complaint, directly related to the reason for the proposed flow restriction, to the industry ombudsman scheme or another external dispute resolution body and the complaint remains unresolved;</p> <p>(c) where the non-residential customer is a landlord and the supply address is occupied by a tenant and the tenant has:</p> <p>(i) provided acceptable evidence (such as an executed tenancy agreement, proof of rental receipts or other bills for goods and</p>	<ul style="list-style-type: none"> • Will the Commission clarify if the subpoints are read in conjunction or in isolation of each other eg: ‘and’ or ‘or’ i.e. does a customer have to satisfy all of these requirements or just one.

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	<p>services) demonstrating the tenant's residence at the supply address; and</p> <p>(ii) satisfied its payment obligations (if any) in respect of the trail service in accordance with the terms of the relevant tenancy agreement:</p> <p>(d) after 3.00pm on a business day</p> <p>(e) on a Friday, on a weekend, on a public holiday or on the day before a public holiday, except in the case of a planned interruption; or</p> <p>(f) it is a day of total fire ban declared by a relevant authority in the area in which the supply address is located</p>	
13.3.1 (a - g)	<p>A retailer may arrange for the restriction of the supply of water services to a residential customer where the residential customer has:</p> <p>(a) Not paid a bill or bills</p> <p>(b) not agreed not agreed to another payment option to pay a bill;</p> <p>(c) not adhered to the residential customer's obligations to make payments in accordance with the payment option relating to the payment of bills in 13.3.1(b);</p> <p>(d) not complied with the terms of its Hardship Policy under clause 7 resulting in the residential customer's removal from that program;</p> <p>(e) not allowed entry to a water industry officer appointed under the Water Industry Act 2012 for purposes consistent with carrying out duties in accordance with applicable regulatory instruments;</p> <p>(f) failed to allow, for 3 consecutive billing cycles, access to the relevant supply address for the purposes of meter reading; or</p> <p>(g) used the water services illegally</p>	<ul style="list-style-type: none"> Will the Commission clarify if the subpoints are read in conjunction or in isolation of each other eg: 'and' or 'or' i.e. does a customer have to satisfy all of these requirements or just one.
13.6.1	<p>The restriction of the supply of water services to a supply address under clause 13.3 may reduce the supply of water to no less than the minimum flow rate prescribed by the Commission by notice in writing from time to time</p>	<ul style="list-style-type: none"> Will the Commission advise what the minimum flow rate it will be prescribing?
16.1.1	<p>Force Majeure</p> <p>If, but for this clause 16, a retailer or a customer would breach their customer sale contract due to the occurrence of a force majeure event:</p>	<ul style="list-style-type: none"> Will the Commission clarify if it considers low water levels in climate dependent systems Force Majeure? Will the Commission clarify what constitutes "prompt notice"?

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	<p>(a) the obligations of the retailer or the customer, other than an obligation to pay money, under their customer sale contract are suspended to the extent to which they are affected by the force majeure event for so long as the force majeure event continues;</p> <p>(b) the retailer or the customer must use its best endeavours to give the other prompt notice of that fact including full particulars of the force majeure event, an estimate of its likely duration, the obligations affected by it and the extent of its effects on those obligations and the steps taken to remove, overcome or minimise those effects.</p>	
18.1.1	<p>Retailer right of recovery for illegal use</p> <p>If a retailer has undercharged or not charged a customer as a result of the customer's fraud or intentional consumption of retail services otherwise than in accordance with applicable regulatory instruments, the retailer may estimate the consumption for which the customer has not paid, using a Commission approved estimation method, and bill or take debt recovery action for all of that unpaid amount.</p>	<ul style="list-style-type: none"> • Will the Commission provide a worked example of the approved estimation method? And/or make it available for further public consultation to ensure that it is relevant and applicable to the nature of the customer – as the clause is non-descript with regard to its application to a residential or non-residential customer?

ESCOSA Water Retail Code - Intermediate Retailers

Clause	Requirement	Question / Comment
1.3	Application	<ul style="list-style-type: none"> Will the Commission clarify, is a CWMS operator required to enter into an agreement with every customer?
13.2.1	A retailer must use its best endeavours to ensure that its actions do not interfere with the safe operation of the network	<ul style="list-style-type: none"> Will the Commission clarify the intent of this clause and clarify definition of the network?
14.1.2	A retailer must keep sufficient records to monitor its performance level and to provide the information specified by the Commission in applicable regulatory instruments	<p>Currently regulatory agencies do not provide a response indicating whether they accept that the systems are operating in accordance with regulatory requirements.</p> <ul style="list-style-type: none"> Will the Commission clarify the extent of records intended by this clause including what the Commission expects from applicable regulatory instruments. Will the Commission clarify, what is its understanding of “all applicable service standards” and “applicable regulatory instruments” Will the Commission provide a worked example of what constitutes sufficient records to monitor performance?