

27 March 2013

Mr Pat Walsh
Chairperson
Essential Services Commission of South Australia
GPO Box 2605
Adelaide SA 5001

Via email escosa@escosa.gov.sa.au

Dear Mr Walsh

Minor and Intermediate Water Retailers

COTA SA is pleased to have the opportunity to provide comment on the Draft Price Determination and consumer protection code for minor and intermediate water retailers.

COTA SA notes that the Commission has been working closely with the Local Government Association and Councils (as the predominant water retailers in these categories) in establishing a pricing regulatory framework. COTA SA does not intend to comment on the substance of Section A of the Draft Report other than to note our concerns about the potential impact of any significant price changes on older customers.

We do not consider that a regulatory requirement to change pricing structures in the name of transparency and cost reflective pricing would necessarily be a good outcome for customers, particularly where cross-subsidised water service provisions are in place. We are pleased, therefore, that the Commission has adopted a “gradualist” approach with this sector and has taken the opportunity to understand past practice and the issues that may arise during the transition phase.

We recognise also that the implementation of standardised consumer protection obligations may have a differential impact on smaller retailers. COTA SA agrees with the Commission’s proposition that as far as possible, water retail codes should be consistent across the industry. We also accept that onerous customer service standards may tip a balance for some minor retailers in that ‘the costs associated with compliance with the *Water Retail Code – Minor Retailers* may outweigh the benefits afforded to consumers and thus a more tailored approach may be required in some instances’ (p.6).

COTA SA is concerned however that the many of the key protections for consumers, such as protections should the retailer fail to issue a bill (s18.2 of the current Code) or a requirement to provide historical billing data to tenants (s18.11.4) have been excluded. We consider that the some of these finer measures should not only be viewed as “costs associated with compliance” but as worthy service obligations that add a consumer focused service elements to the provision of essential services.

We provided detailed comment on the full Water Retail Code (as currently applies to SA Water) prior to its finalisation in late 2012. In that commentary we highlighted our strong view about the importance of customer protection measures in establishing a regulated market for the provision of essential services. Given the fundamental nature of these services, we emphasised the importance of preparing ‘the water industry to anticipate and respond to the varied circumstances of all customers’. In the main, COTA SA was pleased with the scope and depth of the Code in identifying and giving substance to some of the key

protections for consumers. We believe that the Water Industry Code provides the foundation that will shape future market practices in water and sewerage retail services by setting a framework for retailer behaviour.

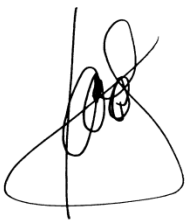
COTA SA considers that the test for the Code must be that it prepares the industry for the community's expectations about the provision of essential services and secures the community's entitlement to safe and reliable water and sewerage services. For this reason, we are concerned about the proposed reduction in the strength of the Code to be applied to intermediate and minor retailers. We understand that the Commission has adopted a light-handed approach in this first regulatory period (of four years duration) and that the Commission intends to work closely with the retailers to ensure they effectively meet their obligations (p iv). Nonetheless, we are concerned that some of the detailed protections that should be available to all water consumers have been trimmed.

Our concerns are twofold. First, we understand that the codes relevant to retailer's size will be in place for the four-year period. COTA SA considers this to be a relatively long period during which time retailers should be encouraged to strive to meet the highest standard of customer protection possible. Secondly, the absence of some obligations for retailers under 50,000 customers may send an unintended message about the community's expectations to existing small retailers as well as new entrants into the retail market. It is also concerning that this approach will predominantly influence protections for rural customers.

For this reason, COTA SA would suggest that the Commission encourage all retailers to consider how they could achieve a customer service framework that meets the full Water Retail Code provisions as far as possible. We would encourage a focus on the full range of protections to reassure the consumers of water and sewerage services throughout the State that their location does not diminish their rights and entitlement to the full protections available and that the transition to a regulated market in these services is not intended to protect the interests of retailers above their own. The objective in this sense should be to acknowledge the need for adequate time and for support so that the more robust safe-guards enjoyed by SA Water customers will be equally applied throughout the State.

We trust that our views will assist the Commission in finalising the framework for the regulation of minor and intermediate water retailers and in ensuring that the long-term interests of all SA residents are protected.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Ian Yates', written over a large, light-colored scribble or background mark.

Ian Yates AM
Chief Executive