

The Water Retail Code

July 2012

The Essential Services Commission of South Australia (Commission) is the independent economic regulator for a range of essential services in South Australia including electricity, gas, water, sewerage, rail and maritime industries.

We are a statutory authority, established under the Essential Services Commission Act 2002 (ESC Act) with a primary objective to:

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

The Water Industry Act 2012 (the Act) establishes the regulatory framework for the South Australian water industry covering economic regulation, technical regulation, water planning and customer complaint handling.

We are responsible for the economic regulation of water and sewerage services in South Australia, which include services provided by SA Water, Local Government and private operators. Our role includes industry licensing, consumer protection, performance monitoring, compliance and pricing matters.

THE WATER RETAIL CODE

The Water Retail Code regulates retailer behaviour when supplying retail services (water and sewerage) to customers.

It includes provisions relating to standard form customer contracts, payment options, billing, enquiries, complaints and dispute resolution processes and the establishment of the service standards that customers can expect to receive from their water and/or sewerage retailer.

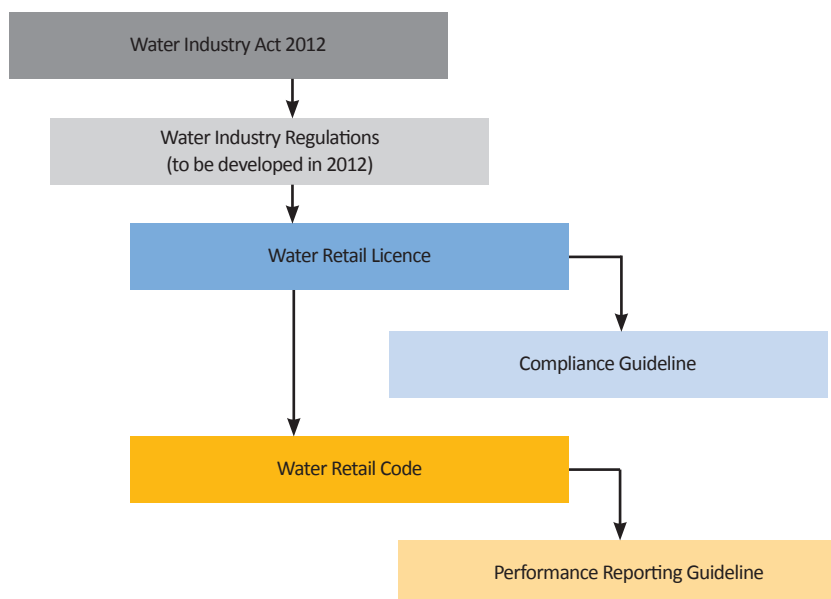
We have already consulted on the broad regulatory framework that we intend to apply to the water industry as part of the preparation of advice provided to the Treasurer in August 2011 and May 2012.

We are currently seeking submissions on our draft Water Retail Code, available on our website: <http://www.escosa.sa.gov.au/library/120712-WaterRetailCode-ConsultationDraft.pdf>.

The Water Retail Code is intended to cover SA Water's operations in the first instance and will be applied to other retailers having regard to the scale and scope of their operations.

A summary of the key areas of the Water Retail Code follows.

Figure 1: The legislative and regulatory framework



APPLICATION OF THE WATER RETAIL CODE

The Water Retail Code governs the sale and supply relationship between customers and their retailers by imposing legally binding regulatory obligations on retailers. For all residential customers and most small business customers, the provisions of the Water Retail Code will, for the first time, provide binding consumer protections.

Recognising that many commercial and industrial customers have pre-existing retail supply arrangements that have arisen from commercial negotiations, we are proposing that, in the first instance, the Water Retail Code will not apply to retailers when selling and supplying to those customers. This may change over time as pre-existing contracts come to an end. We will consider that issue as part of a series of regular reviews of the operation of the Water Retail Code once it has commenced.

STANDARD FORM CONTRACTS

Section 36 of the Act provides a mechanism for the formation of deemed statutory contracts between retailers and customers. Given the binding statutory nature of the contract arising under this section, and the potential for retailers to impose “unfair” terms on customers, section 36(4) of the Act allows us a level of oversight and control of such contracts.

We will consult on the specific form of the standard contract following our consultation on the Draft Water Retail Code, on the basis that the contract will need to match the requirements of our Code. Stakeholders are invited to provide submissions on this matter as part of the current consultation process.

CUSTOMER CHARTERS

A Customer Charter ensures customers are provided with information concerning the key contractual obligations and protections afforded to them by their retailer. We see Customer Charters as an important consumer protection measure as they assist in addressing customers’ key information needs.

Retailers will be required to develop Customer Charters that set out (as a minimum):

- the respective rights and obligations for a retail service under:
 - the Water Retail Code;
 - the standard customer sale contract;
 - the Water Industry Act (and associated Regulations under the Act); and
 - any relevant health or water quality guidelines;
- the minimum standards of service that a retailer must provide to its customers;
- for a water retail service, details of where the customer can obtain water efficiency advice; and
- for a non-drinking water retail service, information on the safe and proper use of recycled or reuse water.

It is important that Customer Charters are clearly written and easily accessible for customers. Whenever material amendments are made to Customer Charters, retailers will be required to provide a copy of the updated Charter to their customers. At all other times, Customer Charters will need to be provided to a customer upon request and must be readily available on the retailer’s website.

COMPLAINT HANDLING AND DISPUTE RESOLUTION

Customers need to have clear and accessible information about how to make an enquiry or complaint about their water and/or sewerage retail service.

Retailers will be required to develop procedures for handling customer enquiries, complaints and disputes in an efficient, fair and accessible manner. The procedures will need to include the ability for escalation of a dispute both within the business and then to an external independent party, (such as the Energy & Water Ombudsman SA (EWOSA)) for resolution in the event that the complaint remains unresolved.

BILLING

It is important for customers to have certainty that their bills are accurate and based on a meter reading of their actual consumption on a regular basis, at least for those services which are metered. Retailers will be required to ensure that customers receive accurate billing information in a timely manner to allow them to verify that their bills have been correctly calculated and to monitor and manage their consumption.

For customers that have not been billed correctly, it is important that protections are put in place so that the customer’s needs are addressed when errors are determined. Retailers will also be required to have processes in place for the review of a bill where the amount payable is in dispute. Where a bill is found to be in error, a retailer will be required to follow procedures for the recovery of amounts undercharged or the reimbursement of amounts overcharged.

PAYMENT AND PAYMENT DIFFICULTIES

Mandated minimum payment options ensure that all customers have a range of accessible payment options and are able to pay accounts through a range of no cost or low cost methods, irrespective of their location. Establishing a minimum payment period allows customers adequate time to better manage their finances.

Retailers will be required to comply with our minimum requirements in the following areas:

- mandatory billing frequency (i.e. quarterly billing);
- minimum due dates for bill payment;
- provision of various payment methods to customers (e.g. mail, direct debit, in person);
- establishment of rules for entering and terminating direct debit arrangements;
- allowing for flexible payment arrangements, payments in advance or bill forwarding to another party upon request free of charge;
- referral to Government concessions, rebates or grants;
- payment flexibility for customers experiencing temporary payment difficulties;
- referral to a retailer’s Hardship Program for customer’s experiencing more permanent financial difficulties; and
- limitations on debt recovery if a customer is participating in an agreed payment plan or is a Hardship Program customer.

CUSTOMER HARDSHIP PROGRAMS

Retailers will be required to develop and comply with Hardship Programs that are consistent with the requirements established by the Department for Communities and Social Inclusion (DCSI).

Retailers' Hardship Programs will need to identify residential customers who are experiencing payment difficulties due to hardship, and assist those customers to better manage their bills on an ongoing basis while ensuring they remain connected to a retail service.

Unlike the flexible payment arrangements offered to all customers, retailer's Hardship Programs will need to allow for flexible and frequent payment options (including a payment plan and Centrelink's Centrepay service) that have regard to the residential customer's usage, capacity to pay and current financial situation.

Customers who continue to actively participate in a retailer's Hardship Program will be protected from credit collection action and retail service restriction.

DISCONNECTIONS AND RESTRICTIONS

Disconnection (or restriction) of a customers' water and/or sewerage services should be the last resort for a retailer attempting to recover debt. Further, customers should not have their water and/or sewerage services restricted or disconnected due to incapacity to pay alone.

To ensure that public health is protected at all times, all retailers will be prohibited from disconnecting water and sewerage services for non-payment.

SA Water will also be prohibited from restricting supply to residential customers in all cases.

All other retailers may restrict supply where a customer fails to pay its bills on an ongoing basis and is not participating in a Hardship Program.

Prior to restricting a customer's water service, retailers must have provided the customer with all reasonable opportunities to pay their bill including:

- offering alternative payment options;
- sending a reminder notice with an extended period to pay;
- after the expiry of the extended period, sending written notice of the intention to install a flow-restriction device; and
- using their best endeavours to contact the customer personally either by telephone, mail or visiting the property.

In the case of residential customers, retailers will also need to assess the household's eligibility for:

- any applicable Government concessions or rebates; and
- participation in its Hardship Program.

The prescribed flow-rate will allow basic public health requirements to be satisfied while acting as an inconvenience to a customer who is able but not willing to pay their bills.

COMMENTS AND SUBMISSIONS

We will be undertaking several rounds of public consultation between now and the formal commencement of our regulatory framework on 1 January 2013.

We are currently seeking comments on our Draft Water Retail Code. We will carefully consider these submissions and, where relevant, incorporate the suggestions into our final Water Retail Code, to be released by November 2012.

We ask that submissions be provided by **close of business Friday, 24 August 2012**.

FURTHER INFORMATION

Any queries relating to the Water Retail Code should be directed to:

Contact Person: Amber Miller, Senior Policy Officer

If you would like to keep up to date with our water industry activities and the release of papers for consultation, subscribe at <http://www.escosa.sa.gov.au/subscribe.aspx>.



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