

Water Consumer Protection Framework for Major Retailers

November 2012

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

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 water and sewerage industry covering economic regulation, technical regulation, water planning and customer complaint handling.

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

CONSULTATION ON THE DEVELOPMENT OF THE CONSUMER PROTECTION FRAMEWORK

We have undertaken an extensive public consultation process over the past two years on the appropriate form of price and non-price regulatory regime to apply to the South Australian water industry.

Our advice on those issues is available on our website at: <http://www.escosa.sa.gov.au/projects/162/economic-regulation-of-the-south-australian-water-industry.aspx>.

In July 2012, we released consultation documents setting out the operational details of our proposed approach to price regulation for service providers other than SA Water and a consultation draft Water Retail Code. Copies of the submissions received on these documents are available on our website at: <http://www.escosa.sa.gov.au/projects/183/water-retail-code.aspx>.

In addition to the written submissions received, we met with potential licensees, held meetings with SA Water, formed a working group with the LGA, held regional workshops with representatives from the majority of Local Councils across the state, addressed Local Government CEOs and were hosted on a tour of the facilities provided by the Outback Communities Authority.

The consultation documents were also considered by our Consumer Advisory Committee at its meeting in mid-August 2012.

We thank all stakeholders for their contributions.

We have carefully considered the issues raised by stakeholders through this consultation period, and, where relevant, incorporated suggestions into our final documents.

ESTABLISHING RETAILER CLASSES

The Act requires us to have regard to the scale and nature of a retailer's operations when determining the appropriate form of economic regulation to apply to individual licensees.

We had previously proposed to develop a single Water Retail Code, with the relevant obligations for smaller retailers included as a schedule or schedules to individual licences.

However, some stakeholders suggested that greater regulatory certainty would be afforded to the majority of retailers other than SA Water and their customers through a standardised approach to the consideration of the scale and nature of retailers' operations.

We have adapted the broad licence categories established by the Treasurer (for the purposes of setting licence fees) to establish three classes of retailers: Major Retailers; Intermediate Retailers; and Minor Retailers. Different forms of regulation will apply to each class.

The application of the consumer protection framework to the three classes of retailers is set out in Table 1.

Table 1 - Application of consumer protection framework and price framework to regulatory classes

REGULATORY CLASS	LICENCE CATEGORY	TOTAL CONNECTIONS	PRICE REGULATION	CONSUMER PROTECTION
Minor	Very Small	Less than 100	Pricing principles for licensees and possibly exemptees (required by Pricing Order)	Modified <i>Water Retail Code - Intermediate Retailers</i> and modified reporting framework
	Small	101 to 500		
Intermediate	Medium	501 to 5,000	Pricing principles for licensees and possibly exemptees (required by Pricing Order)	<i>Water Retail Code - Intermediate Retailers</i> and modified reporting framework
	Large	5,001 to 50,000		
Major	Major	Greater than 50,000	Full revenue determination for SA Water (required by Pricing Order)	Full <i>Water Retail Code - Major Retailers</i> and reporting framework

Major Retailers

We have developed a water industry code, the *Water Retail Code - Major Retailers*, to apply to major retailers from 1 January 2013. While SA Water is currently the only major retailer operating in South Australia, the *Water Retail Code - Major Retailers* is also intended to apply to future retailers that enter the market to compete for mass market customers.

Intermediate Retailers

Around 60% of the State's population is supplied with sewerage services by SA Water, with the rest of the population served by a range of smaller service providers. Local Councils serve a significant portion of the State's population through Community Waste Management Systems (CWMS).

In December, we will be releasing a separate consultation document outlining the draft *Water Retail Code - Intermediate Retailers* and the draft pricing principles to apply to medium and large retailers from 1 July 2013.

Minor Retailers

There are a number of very small and small operators that currently provide retail services to customers. While the regulatory model for Minor Retailers will have regard to the scale and scope of small operators, we intend to apply a core set of consumer protection obligations to all retailers.

We will consider how particular provisions of the draft *Water Retail Code - Intermediate Retailers* should apply to Minor Retailers as part of our consultation process in December 2012.

WATER RETAIL CODE - MAJOR RETAILERS

The *Water Retail Code - Major Retailers* is the principal consumer protection document setting out the behavioural standards and minimum requirements to be complied with by major retailers when dealing with their customers.

The *Water Retail Code - Major Retailers* includes provisions covering the following areas:

- **Standard form customer sale contract** – requirement for retailers to submit standard form contracts to the Commission, for approval;
- **Customer Charter** – minimum information provision requirements about the respective rights and obligations of retailers, customers and tenants;
- **Enquiry, Complaint and Dispute Resolution Procedures** – internal procedures for handling customer enquiries, complaints and disputes, which must include escalation to an independent dispute resolution body where the issue cannot be satisfactorily resolved by the retailer, to be submitted to the Commission, for approval;
- **Hardship Programs** – requirement for retailers to have an approved residential customer Hardship Policy in place;
- **Retail supply obligations** - the quality, safety and reliability of the supply of retail services (under a standard contract), including the requirement for retailers to minimise supply interruptions and provide information to customers on interruptions and develop and administer a compensation scheme for loss or damage suffered by customers;
- **Billing** – minimum requirements around billing to ensure that customers receive accurate billing information in a timely manner and that customers' needs are addressed when billing errors are determined, including requirements around undercharging and overcharging;
- **Payment and Payment Difficulties** - minimum requirements for payment terms, payment methods and the requirements for managing temporary payment difficulties experienced by customers;
- **Disconnections and restrictions for non-payment** - limitations on the grounds on which water and sewerage services may be restricted or disconnected and obligations on retailers prior to restricting a customer.

The *Water Retail Code – Major Retailers* is available on our website at: <http://www.escosa.sa.gov.au/library/121116-WaterRetailCode-MajorRetailers.pdf>

Plain English descriptions and explanations of the provisions of the *Water Retail Code – Major Retailers* is contained in an Explanatory Memorandum available on our website at: <http://www.escosa.sa.gov.au/library/121116-WaterRetailCode-MajorRetailers-ExplanatoryMemo.pdf>

The key issues raised by stakeholders on our draft Water Retail Code as it will apply to Major Retailers are summarised in our Final Decision, available on our website at: <http://www.escosa.sa.gov.au/library/121116-WaterRetailCode-MajorRetailers-FinalDecision.pdf>.

SERVICE STANDARDS FOR SA WATER

Service standards form a separate set of metrics by which the performance of an individual retailer can be monitored and assessed at either the individual customer or a whole-of-undertaking level. Service standards can also have specific financial penalties and rewards associated with them.

We consider it important that consumers of essential services receive a high level of service in respect of reliability and customer service. The setting of service standards puts a positive obligation on licensees such as SA Water to provide a level of service to its customers in return for the prices they pay, and give rights to those customers in relation to those services.

SA Water's Service Standards from 1 January 2013 to 30 June 2013

We have developed the initial set of service standards to apply to SA Water, in consultation with SA Water. The initial set of service standards formalises SA Water's obligation to deliver and report on key customer service areas and are set at levels that require SA Water to maintain its historical performance.

We have adopted SA Water's current geographical segmentation between its Adelaide metropolitan operations and its regional (country) operations in applying the standards.

We have set the initial service standards to apply to SA Water in the following areas:

- Telephone responsiveness;
- Complaint responsiveness;
- Drinking water quality complaints responsiveness;
- Timeliness of connection;
- Timeliness of processing trade water applications;
- Timeliness of attendance at water breaks, bursts and leaks;
- Timeliness of water service restoration;
- Timeliness of sewerage service restoration;
- Timeliness of sewerage overflow attendance; and
- Timeliness of sewerage overflow clean up.

The full set of SA Water's Service Standards for the initial regulatory period are available on our website at: <http://www.escosa.sa.gov.au/library/121116-WaterServiceStandardsSchedule-InitialRegulatoryPeriod.pdf>.

SA Water's Service Standards for the 2013/14 - 2015/16 Regulatory Period

We are currently working with SA Water to develop draft service standards to apply from 1 July 2013 (the time when our first determination of revenues for SA Water will commence).

Further detail on our consultation on SA Water's Regulatory Business Proposal is available on our website at: <http://www.escosa.sa.gov.au/projects/186/determination-of-sa-water-s-drinking-water-and-sewerage-revenue-2013-14-2015-16.aspx>.

COMPLIANCE MONITORING AND REPORTING FOR SA WATER

A key way in which we protect consumers' interests is through ensuring that the entities we regulate comply with the regulatory requirements we have imposed on them. *Water Industry Guideline No. 1* sets out our compliance monitoring and reporting framework for the water industry.

We adopt a collaborative approach to compliance that:

- Encourages regulated entities to actively co-operate in the early reporting and rectification of 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 that breach on South Australian consumers; and
- Reserves stronger enforcement action (e.g. prosecution) for the more serious cases involving wilful or systemic non-compliance with major consequences, or where other processes have not achieved the desired remedial effect.

As is the case in the other industries we regulate, we will not rely solely on water retailer reporting in our compliance work. We will also take into account the advice of EWOSA and other available information to inform our compliance response and to identify any enforcement actions necessary to protect consumers' interests.

Our *Water Industry Guideline No. 1*, including the particular compliance reporting obligations for SA Water, is available on our website at <http://www.escosa.sa.gov.au/library/121116-WaterIndustryGuidelineNo1-ComplianceReporting.pdf>.

PERFORMANCE MONITORING AND REPORTING FOR SA WATER

We collect certain business data from entities we regulate to, amongst other things, monitor and publicly report on performance in meeting set service standards.

Now that the *Water Retail Code – Major Retailers* has been finalised, we are undertaking consultation on the draft performance reporting guidelines to apply to SA Water - *Water Industry Guideline No. 2*.

We will use the data collected under *Water Industry Guideline No. 2* to monitor SA Water's performance in meeting set service standards. The data collected under *Water Industry Guideline No. 2* will form an important input into our Water Industry Annual Performance Report.

A consultation draft *Water Industry Guideline No.2* is available on our website at <http://www.escosa.sa.gov.au/library/121116-WaterIndustryGuidelineNo2-Draft.pdf>.

To provide further detailed guidance to stakeholders on our proposed reporting framework, we have also released an Explanatory Memorandum to accompany our draft *Water Industry Guideline No. 2*, available on our website at <http://www.escosa.sa.gov.au/library/121116-WaterIndustryGuidelineNo2-ExplanatoryMemorandum.pdf>.

We ask that submissions on the draft *Guideline No. 2* are provided by 14 December 2012.



The Essential Services Commission of South Australia is the independent economic regulator of the electricity, gas, ports, rail and water industries in South Australia. The Commission's primary objective is the protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services.

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