

Review of the water charge rules  
Australian Competition and Consumer Commission  
GPO Box 520  
MELBOURNE, VIC 3001



29<sup>th</sup> June 2015

Dear Sir/Madam,

### **Review of the water charge rules—Issues Paper—May 2015**

Thank you for the opportunity to provide a submission on the subject issues paper.

As an irrigator in the Central Goulburn Gravity Irrigation District and a customer of Goulburn-Murray Water (GMW), I have a vested interest in ensuring that our irrigated infrastructure remains viable for the long term. My primary concern regarding the impact of regulation is how it will impact price/tariffs and service.

While I appreciate that this review is not specifically about GMW I trust that, by using some specific examples of activity under the current Water Charge Rules (WCR) by GMW, this will better inform your process.

#### **Tariff reviews conducted by water businesses need to be specifically regulated**

Water businesses, under the current WCR, are provided with insufficient guidance/structure of how to consult with their customers when they seek to undertake tariff reform. In the current process they typically consult on changes to tariffs as a part of the Water Plan process, along with other elements, such as; operational expenditure, capital expenditure, demand forecasts, etc. This is acceptable when all other items are at status quo, but when many of these are moving at the same time it does not support customers to make informed decisions.

As an example, GMW is currently undertaking some necessary reforms within the organisation to improve efficiency (and ultimately reduce costs), termed the GMW 'Blueprint'. The 'Blueprint' is many things all rolled into one, and it broadly examined the following major reforms:

- Reduction of costs by \$20 Million
- Implementation of a single gravity irrigation charge
- Imposing higher service point fees
- Review of the bulk (water) storage charges
- Demand adjustments due to the connections project

Herein lies the first problem with this particular process, it is too complex. This proposal examines fundamental changes to costs and the demand changes impacting GMW; and changes to multiple tariffs. It has been received as a package by customers, when there is no interconnectivity between items (for example the \$20 Million in savings is not dependant on a single price being adopted), rather than individual reforms that customers need to consider.

In this case the reduction of \$20 Million in costs and the increase in the service point fee masks the price impacts of a single gravity irrigation charge being implemented. To a typical customer it looks like there is little/no change at all in this charge, but in reality customers are:

- Being charged considerably more for their service point fee (making it a more significant component of a typical bill) – which has varying customer impacts.
- The organisation is saving \$20 Million and the majority of customers receive no benefit from this (customers in the Shepparton Gravity Irrigation District are the primary beneficiaries) so while costs for services have been reduced in ALL districts, the price paid by most customers has not changed commensurately.
- Making a fundamental shift in the way costs are shared within the organisation, which will result in a higher degree of cross-subsidisation and reduce the transparency of GMW fees and charges.

This means that higher prices are being paid by the majority of the Goulburn Murray Irrigation District (GMID) customers than they otherwise should.

*This highlights the need for tariff reforms to be specifically regulated by the WCR to ensure that they are carried out equitably. Potential regulations could include the requirement to complete reviews outside of a Water Plan review and*

*against a null hypothesis. This will avoid the confusion that many other factors that influence price can cause, enabling customers to make informed decisions.*

### **The cost of developing tariff reforms**

Tariff reforms represent a significant investment by Water Corporations; and by extension their customers. The cost arises from significant internal costs, consultants and consultation processes that are run to develop these proposals. The decision to develop these proposals should not be taken lightly and must be associated with quantifiable cost/service improvements.

A current example of inefficient investment in tariff reform is in progress within the GMID. The single price tariff being developed by GMW was not initiated by customers, nor does it provide any significant savings or benefits directly attributable to this reform.

Customers generally do not have the resources at their disposal to appropriately test the merits of tariff reform, or scrutinise the information provided by highly paid consultants and senior staff within organisations. It is essential in these situations that the regulator (ESC/ACCC) acts as a customer advocate to determine the validity of the claims made by regulated organisations.

*It would be appropriate to consider that the WCR include provisions regarding the costs for establishment of tariff reforms; and that they are subject to the same prudence and efficiency tests that normally apply to regulated expenditure. Pricing policies should have to pass tests (demonstrating customer support, customer benefit and compliance with ACCC pricing principles) to ensure that proposals made to the broader customer base are prudent. Customer support can also be demonstrated through customer consultative groups during key phases of policy development.*

### **Customer consultation and information provided to customers**

Customers rely on information being supplied during periods of consultation to make informed decisions and provide feedback to their Water Corporations on their proposals. However, Water Corporations have a potential conflict of interest to ensure that the proposal that they make is accepted by customers.

This was particularly prevalent during the GMW Blueprint consultation, where opinion and information provided strongly supported the key positions adopted by GMW. This was highlighted by a lack of information in key areas:

- Typical customer impacts – these reforms sought to adjust the most significant fees on a customer account (water storage, infrastructure access and service point fees). Only estimates of individual fees were provided and customers were not informed of the full impacts. Including a 2% inflation figure (and based on a 1 ML/day delivery share and 1 Service Point, over the period of the Blueprint) this would have shown increases at a minimum of 30% in all areas (excl. Shepparton) up to 55% in Rochester, while prices would decline by 8% in Shepparton. Had this information been made available it is likely this would have resulted in a customer backlash at that time.
- Trade-off between service point fees and infrastructure access fees – a key proposal to increase service point fees was based on the proposition that an increase in service point fees would off-set the need to increase infrastructure access fees. Customers should have been explicitly informed of the dollar/percentage impacts that this would have on them. This could have been achieved through a simple table showing the ratio between service points and delivery share.
- Water storage charges – GMW did not model the positive impacts that adopting a basin pricing methodology would have on ALL gravity irrigation customers and the majority of regulated diverters. Such an omission is likely to influence the feedback received by customers.

I remain concerned that as the process to implement a single tariff continues GMW may continue to adjust the information supplied and its processes to support the position that it has adopted.

Customers generally do not have the resources or information to enable them to properly evaluate GMW policies and rely on Water Corporations and Regulators to ensure that appropriate information is being provided. The WCR need to recognise this inequity and support customers through appropriate regulation.

*As a priority the WCR need to be amended to ensure that information supplied to customers must be independent and impartial. This should be accompanied by sufficient consequences to prevent Water Corporations providing misleading information to their customers.*

### **Annual price reviews**

The current annual price review process is too limited in scope and does not allow the regulator to address the concerns of customers. There is no reference to the short run and long run marginal costs of supply, so there is no certainty that customers are paying the economically efficient costs of supply.

Water Plans are effectively set up on a short-medium run cost of supply (due to the timeframe of the plan). Where the adoption of prices on this timescale is unlikely to impact price stability then this should be the pricing approach adopted by Water Corporations.

Further, where cross-subsidisation exists, this needs to be made explicit to customers.

*The ACCC should consider amending the information requirements under the WCR for price reviews to include reference to short-medium run marginal costs of supply, to ensure prices charged to customers are cost reflective (and therefore efficient).*

## **General**

In this process I would also like the ACCC to consider the following:

- Mechanisms for the separation of inefficient investments out of the RAB.
- The use of self-insurance as a means to address price stability issues for Water Corporations (eg. a result of flooding).
- Ring-fencing of revenues to services where the revenue is derived. Such as above entitlement storage fees charged by GMW and not being returned to the appropriate customer group.

Should you have any questions, or require any further information regarding my submission I welcome the opportunity to speak with you further. Please also find attached (as an addendum) responses to some of the specific questions raised within the Issues Paper.

Yours Faithfully,

Daniel Mongan

**3. How could the water charge rules more effectively contribute to achieving the Basin water charging objectives and principles?**

This can be achieved through adopting a more explicit cost reflective pricing approach to regulation.

**4. Are there any particular provisions of the water charge rules that are not clearly drafted, unnecessarily complex or otherwise ambiguous? How could this drafting be improved?**

The rules are generally too broad and need to become more specific in order to achieve the outcomes sought by the ACCC and Federal Government.

**5. What do you think are the advantages and disadvantages of combining the water charge rules into one set of rules and / or combining the water market rules with the water charge rules?**

I agree with the approach of combining the rules, as they relate to the regulation of water, in one document. It makes it easier for all involved to find these regulations more quickly and effectively.

**6. Is the ACCC's guidance material useful? In what ways could it be improved?**

The ACCC's guidance materials are generally lengthy and highly legalistic, with the primary audience set as the accredited bodies and the regulated entities. While these organisations are responsible for complying with the rules, customers are ultimately the ones who are impacted by effective/ineffective regulation; and for whom regulation is in place to protect. Much more can be done to ensure that customers are appropriately educated in regulation, to understand the impact that it can have on them. It would be reasonable to assume that few customers actually understand how their prices are set, let alone the role that the ACCC plays in their approval.

I suggest that it may be appropriate for the ACCC to promote its positive role in the regulation of prices and as a customer advocate in the Water Industry. This may be achieved through a variety of means, some suggestions include:

- simple brochures that explain the role of economic regulation and the ACCC (potentially supplied with annual price notifications – at little additional cost)
- using the existing networks of ACCC accredited bodies and Water Corporations to inform customers of the role that regulation plays in the establishment of prices.

**7. What are your views on how the ACCC has used its enforcement powers in relation to the water charge rules?**

The ACCC has adopted a cooperative approach for the enforcement of the rules, which is a sensible approach, particularly as this is a relatively new piece of regulation. However, regulated entities have now had sufficient opportunity to become familiar with the regulations and the ACCC should now play a more active role in this area.

As an irrigator, my main concern with the cooperative approach is that it lacks transparency and potentially places a bias on supporting the regulated entities, rather than their customers. Ultimately the aim of regulation (and the ACCC) is to protect the interests of consumers. It is the consumer who is disadvantaged by the monopolies in the Water Markets and that is who regulation should seek to protect.

**8. How could the ACCC improve its approach to achieving compliance with the water charge rules?**

Establish a regional presence for the ongoing engagement of customers and the monitoring of regulated entities.

**10. How do you think the WCIR could be amended to improve the clarity of the criteria used to determine infrastructure operators' size and ownership?**

The ACCC could list the entities covered by the legislation (there is not that many) and then provide 'catch all' rules for any new entrants.

**17. Are the schedules of charges produced by infrastructure operators sufficiently clear and detailed to meet the needs of customers and potential customers?**

No – customers should be able to receive a concise list of charges for those that typically apply in their area. The provision of a list of approximately 300 tariffs (for GMW customers) makes what should be something quite simple, very complex. If a concise list was to be supplied a link to the website with the full list could be in this document, or available on request.

This would improve clarity for customers and reduce costs for the organisation.

**19. Are the publication requirements in relation to schedule of charges appropriate?**

They are good, but not necessarily complied with. Both GMW and accredited regulators should be held to strict timeframes to ensure that approval processes are not delayed.

**20. In what circumstances should an infrastructure operator be exempt from the obligation to include all their regulated charges in their schedule of charges? What procedural requirements should they be required to meet?**

See question 17.

**24. What other measures could be used to address the potential misuse of market power by large infrastructure operators, beside the approval or determination of regulated charges under the WCIR? What are the advantages and disadvantages of these measures?**

Please see letter for circumstances where it may be applicable to put other measures in place. The ACCC could also consider the possibility of fines for Water Corporations and Directors (depending on the severity of the issue), or tools like Guaranteed Service Levels (GSL's) for certain services.

**30. What are the advantages and disadvantages of the ACCC's pricing principles defining the terms used in the BWCOP and / or ordering them into a hierarchy to guide the discretion of regulators and provide greater certainty to industry participants?**

The pricing principles are currently too broad and subject to interpretation by the Water Corporations. The terms themselves should be defined more accurately and examples of expectations provided.

**31. Are the provisions regarding the annual review of regulated charges for Part 6 operators appropriate?**

No – see comments in letter.

**39. What are the advantages and disadvantages of accrediting Basin State regulators?**

The state based regulators (such as the ESC) are incredibly experienced and have learnt many valuable lessons since the introduction of economic regulation to the water industry.

However, these organisations are also operated by the state government, who are (commonly) the owners of the largest Water Corporations. This creates a potential conflict of interest that requires appropriate oversight by the ACCC.

**44. Should there be a general requirement for all infrastructure operators' charging arrangements to be consistent with the Basin water charging objectives and principles?**

Yes – there should be consistency amongst all of the infrastructure operators in the MDB. This would remove the differences between approaches along the Murray river operators and allow water to flow to its highest value.

**51. Do you think the approach to termination fees could be modified in order to improve the operation of markets?**

Water assets have useful lives that can exceed 100 years and they are maintained to optimise their useful life. Allowing customers to use and discontinue use of the infrastructure is inefficient and creates a cost burden for those who consistently use the system.

Termination fees are vital to maintain price stability and ensuring that irrigation remains viable.

**55. Should Basin States be required to publish information about their WPM charges?**

One area of unnecessary administrative burden is the compliance costs of the Water Planning and Management charges. GMW is required to supply extraneous amounts of detail (available on their website), which relates to charges that are immaterial to both customers and GMW.

The charges should not have to be published, nor should the amount of information required be prepared.

**56. Have you accessed and used the information published on WPM charges under the WCPMIR by Basin States? If so, was the information useful to you and how did you use the information?**

No – I find no use for this information in any way.

The ACCC should ensure that Government/Water Corporations are required to make the pricing of these services cost reflective (by completing a time in motion study – or similar costing exercise) during water plan reviews, but this should not be onerous, or any greater than the requirements for other miscellaneous charges.

**61. Are there specific requirements to publish information in the WCPMIR that are unnecessary, onerous, unreasonable or unduly costly?**

See question 56.