

Peel Valley Water Users Association Inc

The only organisation that represents the Irrigation Industry in the Peel Valley

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Review of the Water Charge Rules
Australian Competition and Consumer Commission
GPO Box 520 Melbourne Vic 3001

16th June 2015

By email to: waterchargerules@accc.gov.au

Dear Commissioners

Re: Review of the Water Charge Rules – Issues Paper – dated May 2015

Thank you for the opportunity to lodge a submission on behalf of the irrigation industry in the Peel Valley.

Our submission is attached, and we look forward to having a continuing involvement with the ACCC during the remainder of the review process.

We would be happy to provide any additional information that may be required to assist the ACCC in arriving at a decision that addresses the concerns in our submission.

Yours sincerely

Tom Woolaston
Co-President

Jannine Miles
Co-President

John Brigden
Vice-President

Cc The Hon Barnaby Joyce, MP, Member for New England; Tamworth Regional Council; The Hon Niall Blair, MLC; Kevin Anderson MP; Commonwealth Environmental Water Holder

SUBMISSION TO THE ACCC – REVIEW OF THE WATER CHARGE RULES

Submitted by the Peel Valley Water Users Association Inc – June 2015

Introduction

The Issues Paper states that *‘the ACCC is also interested in stakeholder views on issues related to the water charge rules not otherwise covered in this issues paper, or the subject of a particular question’*.

The following submission is in that category, and our submission is focussed on

- (i) the inequity of the outcomes that are actually produced by the water charging rules, and
- (ii) the need for the application of the existing rules to be modified, because they continue to produce charges that are inequitable and discriminatory against the Peel Valley.

We have lodged this submission to once again highlight that the current rules that are used for charging for bulk water are defective, and it has reached the point where urgent corrective action is required.

Background

Over the years, when IPART was the former regulator of water charges that are imposed by State Water (and also the NSW Office of Water), the Peel Valley Water Users Association lodged many submissions to IPART and appeared at many IPART Public Hearings. More recently, this Association also lodged a submission to the Expert Panel conducting the review of the Water Act, and representatives attended the Expert Panel’s Public Hearing in Melbourne.

But over those same years, the gap between the valleys which are charged the least for water and those valleys which are charged the most for water has progressively widened significantly. The Peel Valley has always been subjected to the highest water charges, and the charges in the Peel Valley have now escalated to the point where they are grossly inequitable.

The Peel Valley Water Users Association had anticipated that when the ACCC replaced IPART as the regulator of bulk water charges, that the new regulator would take a fresh approach and that a more equitable pricing regime would have prevailed. But unfortunately, the ACCC has continued the previous regulator’s strategy of allowing excessive water charges to be levied on the Peel Valley.

Therefore, the Peel Valley Water Users Association remains of the view that

- (i) the ACCC has not properly considered the impact of the excessive water charges in the Peel Valley, and
- (ii) the rules which produce such an inequitable pricing outcome in the Peel Valley urgently need to be modified.

Issues for the ACCC to consider when reviewing the water charge rules:

(i) The inequity of the outcomes that are actually produced by the water charging rules

Reproduced in the table below, are (1) the High Security Entitlement charges and (2) the water usage charges for the 2015/16 year that have been determined in the ACCC's final decision.

It is evident that both of these charges in the Peel Valley are grossly excessive and grossly inequitable when compared to all of the other valleys. The charges are also grossly discriminatory against the Peel Valley when compared to all of the other valleys.

It is incomprehensible that the ACCC believes that these charges are consistent with the ACCC's obligations to 'promote competition and fair trading'.

We contend that if it is the rules that produce such a wide range in prices, then the rules are clearly defective.

Draft Water charges proposed by the ACCC for the 2015/2016 financial year

Valley	(1) High Security Entitlement Charge (\$/ML)	(2) Usage Charge (\$/ML)	Total High Security Charge (\$/ML)
Peel	\$31.65	\$52.27	\$83.92
Namoi	\$16.81	\$19.80	\$36.61
Lachlan	\$14.84	\$19.33	\$34.17
Macquarie	\$14.35	\$15.89	\$30.24
Gwydir	\$14.00	\$11.89	\$25.89
Border	\$11.20	\$10.18	\$21.38
Murray	\$4.79	\$6.40	\$11.19
Murrumbidgee	\$3.63	\$4.28	\$7.91

It appears that Water NSW, and the ACCC have both become overwhelmed by the unnecessary complexity of the calculations and the multiple regulations which are involved with determining the pricing outcome. As a result, both entities have lost their focus on the need for equity in the pricing outcomes that are actually produced by the process. Surely the pricing outcomes are the most important consideration in the determination of prices - and more important than the process that is employed to derive them. Both Water NSW and the ACCC appear to have completely lost sight of that reality.

If the above charges are the best outcome that all of the rhetoric, all of the acronyms, and all of the unnecessarily complex calculations can produce, then the existing rules obviously need to be modified.

No regulator permits any other utility (such as gas or electricity) to be priced in such an inequitable manner. And no other commodity (such as petrol, eggs, bread, milk, etc) is allowed to be priced in such an inequitable manner. So, why is this inequitable pricing permitted for water? If the reason is that the State owned monopoly and the regulator are simply following the rules, then obviously the time is well overdue for the rules to be changed.

Across Sydney, all consumers pay the same price for their water. Why is it permissible then, that across regional NSW, there is such an enormous difference in the prices that are allowed to be charged – by a State owned monopoly? The charges in the above table are real dollars that must be paid by consumers, and if these figures are the result of dysfunctional rules, then the rules need to be amended.

- (ii) The need for the application of the existing rules to be modified, because they continue to produce charges that are inequitable and discriminatory against the Peel Valley

Below we have repeated the previous table of water charges, just in case the hideous water charges in the Peel Valley were overlooked by any of the Commissioners earlier in this submission.

Draft Water charges proposed by the ACCC for the 2015/2016 financial year

Valley	High Security Entitlement Charge (\$/ML)	Usage Charge (\$/ML)	Total High Security Charge (\$/ML)
Peel	\$31.65	\$52.27	\$83.92
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On page 9 of the ACCC's Issues Paper, Section 4.2 states that *'The water charging objectives are to:(e) avoid perverse or unintended pricing outcomes'*.

This Association maintains that these pricing outcomes are both intended, and they are perverse. We therefore believe that these prices are plainly in breach of the Water Act.

Obviously, the purpose of originally including such a clause in the Water Act was to prevent the very sort of charges that are currently being imposed on the Peel Valley. It beggars belief that neither Water NSW, nor the regulator (the ACCC) consider the charges in the Peel Valley to be 'perverse'.

This Association has previously requested a definition of what constitutes a 'perverse pricing outcome' from Water NSW, and separately from the ACCC, and also separately from the Expert Review Panel which reviewed the Water Act. Yet not one of these august bodies has been in a position to provide a definition of the term 'perverse pricing outcome'.

How is it then, that these eminent entities can unashamedly pronounce that the prices in the Peel Valley are not 'perverse' - when there is no official definition of the term, and when they themselves cannot provide a clear definition of what the term means? How can the ACCC expect people in the Peel Valley to accept the ACCC's decision when they will not provide the details to substantiate one of the basic concepts that they have adopted in arriving at the decision?

In most Acts, and in most Government documents (including on page i of the ACCC's Issues Paper) there is either a definition of terms, or a glossary of terms which have been used in the document. During the recent review of the Water Act, this Association sought the inclusion of a definition of the term 'perverse pricing outcome' in the revised Water Act. The Expert Panel decided that such a definition was not required, and we have our own private opinion as to why that decision was made. Nevertheless, it is ridiculous that such a vital term is not defined anywhere, and yet all of the relevant authorities continue to assert that the water charges in the Peel Valley are not 'perverse'. Why not one of the relevant authorities will define the term 'perverse pricing outcome' is open to conjecture, and in the absence of a proper definition of the term, it is inexplicable how the regulator can continue to assert that the prices in the Peel Valley are not 'perverse'.

Conclusion

This submission has been lodged on behalf of the irrigation industry in the Tamworth region, and the irrigation industry is comprised of both the irrigators and the many irrigation-dependant businesses, as well as a large number of employees who depend on the viability of the irrigation industry for their livelihood.

But there is another equally important sector of the community which is affected by the inequitable water charges, however, we are not authorised to comment on their behalf. That sector is the 55,000 residents and the businesses in the Tamworth region, all of whom are impacted by the grossly inequitable water charges which are levied on Tamworth Regional Council, and then passed on to the community via either council rates or water rates. There is a large (and expanding) chicken growing and processing industry in Tamworth, and together with the lamb abattoir and beef abattoir, they are major water users. It is only a question of time before such large businesses (and others) will relocate elsewhere due to the excessive water charges to which Tamworth is subjected, with the resulting loss of a significant number of jobs in the region.

For decades representatives from the Peel Valley Water Users Association have appealed to politicians from several different Governments to have the problem resolved - we have lodged several submissions to two separate regulators, we have appeared at Public Hearings, and we have appeared before the Expert Panel into a review of the Water Act. During that period of time, the main things that have remained constant are the water charge rules and the rapid increase in water charges in the Peel Valley compared to all other valleys. Clearly, the water charge rules are at the very core of the problem with water charges.

We find it deplorable that the grossly inequitable water charges have been allowed to continue for so long, and if the real cause of the problem is the rules which are used to arrive at the inequitable charges, then the rules must be amended to produce a more equitable pricing outcome.

The ACCC Commissioners may be aware that in the North Coast valley below Toonunbar Dam, (which is not part of the Murray-Darling Basin and is therefore regulated by IPART), due to the excessive water charges in that valley many irrigators have ceased irrigation farming and have surrendered their licences. It is appalling that bad Government policy, which is administered by bureaucrats who have no concern for the impact of their decisions, will soon have the same result in the Peel Valley, unless the regulator does its job properly and introduces new water charge rules which produce a fair and equitable outcome for all concerned.