



19 October 2007

Dr Michael Keating
Chairman
Independent Pricing and Regulatory Tribunal
Sydney NSW

By email: ipart@ipart.nsw.gov.au

Dear Dr Keating

Review of prices for Sydney Water Corporation's water, sewerage, stormwater and recycled water

Thank you for providing the Public Interest Advocacy Centre (PIAC) the opportunity to comment on the above review.

Please find attached the Public Interest Advocacy Centre's submission to the review of RoLR fees.

Please call me if you wish to discuss any of the issues raised in our submission.

Yours sincerely

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**Submission to IPART's review of prices for
Sydney Water Corporation 2008-2012.**

19 October 2007

Mark Byrne Senior Policy Officer
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The Public Interest Advocacy Centre (PIAC)

PIAC seeks to promote a just and democratic society by making strategic interventions on public interest issues. PIAC is an independent, non-profit law and policy organisation that identifies public interest issues and works co-operatively with other organisations to advocate for individuals and groups affected.

In making strategic interventions on public interest issues PIAC seeks to:

- expose unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate;
- promote the development of law—both statutory and common—that reflects the public interest; and
- develop community organisations to pursue the interests of the communities they represent.

Established in July 1982 as an initiative of the Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only, broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Centre Funding Program, but also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Utility Consumers' Advocacy Program

The Utility Consumers' Advocacy Program (UCAP) was established in 1998 by PIAC with funding from the NSW Government to develop policy and advocate in the interests of residential consumers, particularly low-income consumers, in the NSW energy and water industries. UCAP staff receive broad policy direction from a community based Reference Group whose members include:

- Council of Social Service of NSW (NCOSS);
- Tenants Union;
- Combined Pensioners and Superannuants Association of NSW (CPSA);
- Park and Village Service;
- Western Sydney Community Forum;
- Rural and remote consumers; and
- Institute of Sustainable Futures, University of Technology.

1. Introduction

PIAC recognises the need for increased water charges as a result of reduced revenue and the need to invest in new infrastructure. However, we have concerns regarding the composition of the proposed increase; the impact on low income households; and some of the proposed miscellaneous charges.

To a large extent, the problems Sydney Water Corporation (SWC) is currently facing are the result of the inherent conflict between its role as a monopoly supplier of an essential service which is gradually becoming more scarce, and the need for a corporatised utility to return a (hopefully increasing) dividend to the state government. The more water it sells, the more money it returns to the government; on the other hand, it is at the mercy of variable climatic conditions and is expected to help its customers save water. As the impacts of climate change

are increasingly felt in Sydney, the public interest is likely to be increasingly jeopardised by this conflict.

While SWC's corporate model of governance is unlikely to change in the near future, at the very least it should not be required to return a dividend to the government while it is also making extensive infrastructure investments. This amounts to the public being taxed for its use of water, which might make sense if the revenue was used to improve the security and safety of the water supply, but not when the revenue could be used to fund anything from new roads to government advertising.

2. Price increase

With respect to the four components of the proposed price increase, we submit the following:

1. We view the construction of a desalination plant (c. 40% of the total price increase proposed by SWC) costing approximately \$1.8 billion to build and \$55 million pa to operate as a poor investment which will place a significant burden on low income households.
2. "Renewals, servicing growth and operating licence" (c. 30%) is an appropriate item and we support its inclusion.
3. We support investment in recycling projects and demand management initiatives (c. 15%) and therefore do not have an issue with this item.
4. Charging consumers an amount for financial viability (c. 20%), whilst delivering a substantial dividend to Government (\$193 million in the 2005-06 financial year),¹ amounts to taxing consumers to ensure that a corporatised utility providing an essential service can appear to be profitable.

We therefore consider that more of the additional revenue sought by SWC should be allocated to extending the rainwater tank rebates, recycling schemes and other demand management initiatives and to social programs to reduce the impact of the price increase on low income households. While this issue is beyond IPART's control, PIAC will continue to be critical of this perceived misallocation of resources.

3. Price path

3.1 Length of price path

We agree with SWC that a four year price determination encourages cost efficiency and minimises regulatory costs. Having a shorter time period would mean having 3 price determinations in 5 years; any longer and it becomes difficult to accurately forecast revenue and expenditure.

However, this price path does put it out of alignment with IPART's review of the Sydney Catchment Authority (SCA) bulk water pricing, most recently determined in 2005. PIAC seeks clarification from IPART as to whether there are plans to marry the SCA and SWC price determinations in the near future — eg, by ending the next SCA determination in June 2012.

We are also concerned that if accepted by IPART, SWC's submission to directly pass through SCA costs to consumers rather than absorbing them within the increase determined by IPART

¹ Sydney Water Corporation Annual Report 2006, page 53.

would likely result in additional price increases to consumers from 2009-12. We would therefore ask IPART to demonstrate how this request benefits consumers, in lieu of which it should be rejected.

3.2 Glide path

PIAC recommends that IPART maintain its glide path approach to setting prices for essential services. This limits the potential for utility price shock to be suffered by consumers. IPART adopted this approach in electricity determination for both distribution and retail pricing, in recognition of s 15(1)(k) of the *Independent Pricing and Regulatory Tribunal Act 1992 NSW (IPART Act)*.

PIAC has serious concerns regarding the capacity of low-income residential consumers to pay the proposed 30% increase in their water bill. SWC's desire to charge consumers substantially more in the first two years of the determination period amounts to an unreasonable impost, especially for low income households, and is likely to result in SWC having to spend more assisting people suffering utility hardship.

The price increases proposed by SWC would not occur in a vacuum. Recently, there have been substantial increases in the cost of other essential services. For instance, IPART's retail electricity tariff 2007 approved 30% price increase over the next 4 years. IPART should therefore use its Household Survey to gauge the impact of price increases on customers across all essential service sectors.

4. Price as a signal

It is difficult for SWC to justify the argument that raising water prices is intended to encourage environmentally sustainable consumption rather than to simply raise revenue. There is no evidence that moderate increases in water prices are an effective method by which to reduce water consumption — an outcome that has been achieved in recent years in Sydney by the introduction of more stringent water restrictions rather than via substantial price increases.

We therefore recommend that, in the absence of evidence to justify the claim, the price of water should not be touted as a consumption reduction tool.

4.1 Inclining Block Tariffs (IBTs)

PIAC remains unconvinced that IBTs are an effective tool to reduce consumption, especially whilst there are level 3 water restrictions in place. These have not only reduced discretionary water consumption, but have caused SWC to request price increases due to falling revenue.

Sydney Water has not provided any data to show that IBTs have helped reduced consumption, or been responsible for a change in behaviour of the 12% of consumers who incur tier 2 pricing. IPART should therefore assess the success of IBTs in order to support their continued use in water pricing determinations.

Of particular concern would be the alteration of the consumption threshold for the two tier tariff system, as presented hypothetically by Sydney Water. The consumption thresholds should be maintained at 400kL/year in accordance with IPART's previous water pricing determinations.

We acknowledge that SWC has taken steps to prevent large non-discretionary consumers, such as big families, from being adversely affected by IBTs, and that it has recognised that it needs and intends to do more in this regard.

4.2 Water restrictions

A consequence of reducing consumption through the introduction of Level 3 water restrictions is that it has apparently reduced Sydney Water's revenue by \$380 million. Sydney Water now wants prices increased to cover the costs of this lost revenue.

This phenomenon highlights the dilemma of Sydney Water being a corporation with a profit motive that does not coalesce with efficiency measures. It also shows that there is no reward for consumers who have significantly reduced their consumption, and demonstrates the paradox of having IBTs with water restrictions. One uses price as a signal to say that if you consume more you will be charged more; the other means that if you consume less you will still be charged more.

IPART should adopt an incentive based approach to water pricing, in similar fashion to the "D-factor" in electricity distribution pricing determinations. Sydney Water would then be compensated within the determination period for adopting water conservation measures, rather than seeking price increases from consumers due to perceived lost revenue.

4.3 Scarcity Pricing

PIAC believes that there are already very effective methods of managing scarce resources, such as imposing water restrictions. Scarcity pricing would be socially regressive, favouring those with higher disposable incomes and potentially even risking the health and wellbeing of low income consumers. Consumers are already incurring a form of scarcity pricing through their forced long-term investment in the Kurnell desalination plant.

5. Desalination Plant

5.1 Priced prior to operation

The considerable burden of paying for the cost of the construction of the Kurnell desalination plant should be spread as far as possible overtime and across the population. We therefore recommend that IPART should allow for the capital costs of the desalination plant and associated infrastructure to be recovered over at least twenty years. We also support the use of postage stamp pricing for recovering these costs.

5.2 Energy source

Obtaining the considerable energy that will be used by the plant from GreenPower accredited sources will cost more than using old renewable or fossil fuel-based energy. We accept this as a legitimate part of Sydney Water's application for a price increase, as long as the energy is GreenPower accredited.

5.3 Choosing water from different sources

It is not clear to us how much water Sydney Water is contractually obligated to buy from the desalination plant, even when SCA water is available for a cheaper price. We would appreciate clarification on what influence these contractual obligations will have on IPART's price determination.

6. Social programs

While Sydney Water considers itself to be a business rather than a charity, the water that it provides is not only an essential service but one of the most basic elements of life. If it is going to be charging more, it should also consider compensating the most vulnerable members of the community. It could, for instance, take a more proactive approach to identifying customers suffering, or likely to suffer, hardship, and putting brochures in community languages in their bills explaining rebates, water efficiency initiatives, flexible payment terms and the Payment Assistance Scheme.

7. Miscellaneous Charges

Sydney Water should be congratulated for taking initiatives that will benefit vulnerable consumers, such as the introduction of Centrepay as a bill payment option. Contrarily, its proposals to introduce a variety of new charges to consumer bills represents a movement away from attempts to reduce the burden of utility bills on disadvantaged consumers.

7.1 Late Payment fee

The proposed price rise will have a significant impact on all residential consumers, particularly those on low or fixed incomes. Some customers on low and fixed incomes will struggle or be unable to pay their bills due to the price rise. Therefore, Sydney Water's proposal to introduce a fee for the late payment of water bills is inappropriate. Consumers who are struggling to pay their bill should not be penalised with a \$5 late fee.

Moreover, Sydney Water has not made a strong case for late fees. It has not evidenced the incurred cost of the late payment of bills, nor provided the method of its calculation. IPART's 2005 water pricing determination found that Sydney Water absorbs the cost of following up overdue accounts in its overheads, and therefore could not justify the implementation of a late fee. The situation has not changed sufficiently to introduce a late fee now.

Sydney Water's fee comparison to the electricity industry is not appropriate, given that it is a monopoly service provider. Competition in the electricity market has seen electricity retailers offer innovative products regarding payment options. If consumers of electricity do not want to be charged a late fee then they can switch to a retailer that offers more attractive payment options.² Sydney Water customers do not have this opportunity.

Whilst we recognise that not all late paying customers are experiencing hardship, payment plans are an imperfect system of identifying and assisting consumers suffering utility hardship. Therefore, incentives to pay on time should not be punitive.

Finally, once a late fee is introduced, there is often a subsequent push by suppliers for it to be increased. For example, in this year's electricity price determination, IPART increased the fee for late payment of electricity bills at the behest of energy retailers.³

² See, for example, TRUenergy's "Go for More" product, found at:

www.truenergy.com.au/Residential/TRUenergyPackages_NSW/Go_for_More.xhtml

³ IPART Regulated electricity retail tariffs and charges for small customers 2007 to 2010, p 130.

7.2 Credit Card fee

We do not agree with Sydney Water's request to introduce a fee for consumers paying their bill by credit card. This policy is incongruous with the stated intention of introducing a late fee; that is, to encourage people to pay their bill on time. It also comes at a time when Sydney Water is closing down service centres, reducing the number of bill payment options available to consumers.

In the event that a credit card fee is introduced, PIAC recommends that Sydney Water's submission for price increases be reduced by an amount equal to the cost of processing payments (estimated at \$2.4million), because this is a cost which SWC will no longer incur.

Lastly, any introduction of a credit card fee must be accompanied by a clear explanation on bills that there is an additional fee for credit card payments.

7.3 Residential Service Charge

We also reject Sydney Water's proposal to charge higher fixed service fees for residential consumers with non-20mm meters. In the 2005 water price determination IPART rejected the different fee system for different sized meters. The larger meters were originally installed by Sydney Water and remain its property. Consumers should not now be penalised for inheriting larger meters. Sydney Water should replace larger meters free of charge.

8. Water Savings Fund/Climate Change Fund (WSF/CCF)

One of the additional costs incurred by SWC since the 2005 IPART determination has been its contributions to the WSF (now integrated into the CCF), which, with other demand management programs, is expected to amount to \$57.5 million between 2005-06 and 2007-08. We accept that this additional cost burden has not been passed on to consumers. However, neither have many of the benefits. With the exception of the Waterfix program, few of the projects funded by the WSF have been for the benefit of residential consumers, with successful applications for contestable funding going mostly to business and local and state government bodies.

This will change with the availability of rainwater tank, hot water system and ceiling insulation rebates under the new CCF, so we accept that this cost can reasonably be passed on to consumers. However, there is no data to show that rebate programs are taken up in large numbers by low income households, so other incentives (eg, aimed at improving water efficiency in private rental housing) should be initiated to ensure that low income households, who effectively pay into the CCF through their water bills, are also likely to reap the benefits.