



public interest
ADVOCACY CENTRE LTD

**Hunter Water Prices: Submission to IPART Draft
Report on prices for water, sewerage,
stormwater and other services for Hunter Water
Corporation**

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The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that seeks to promote a just and democratic society by making strategic interventions on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, 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 & redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent & responsive government;
- encourage, influence & inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to systemic unmet need; and
- maintain an effective and sustainable organisation.

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. PIAC also receives funding from the NSW Government Department of Energy and Water for its work on utilities, and from Allens Arthur Robinson for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Energy + Water Consumer Advocacy Program (EWCAP)

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the Program is to develop policy and advocate in the interests of low income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the Program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW (CPSA);
- Park and Village Service;
- Ethnic Communities Council NSW;
- Rural and remote consumers;
- Institute of Sustainable Futures (ISF), University of Technology (UTS);
- Indigenous consumer representative; and
- Western Sydney Community Forum (WSCF).

Introduction

PIAC welcomes the opportunity to provide further comment on the Independent Pricing and Regulatory Tribunal (IPART) review of prices for water, wastewater, and stormwater services for the Hunter Water Corporation.

PIAC strongly endorses IPART's rejection of Hunter Water's proposal to increase the typical residential bill by 54 per cent but remains concerned that the recommended 31 per cent increase represents a substantial burden for customers. PIAC is particularly concerned about the capacity of low-income and other disadvantaged households to cope with the proposed price increases over the determination period.

In response, PIAC advocates for improvements to the pensioner water rebate and the introduction of a mandatory hardship program. PIAC also asks IPART to reconsider household contributions to the construction of the Tillegra Dam, the return on assets to Hunter Water, and the large increase proposed in the first year of the determination.

Pensioner Rebate

PIAC is concerned that the adoption of the draft determination would see pensioners experience considerably greater percentage increases in their bills than customers who are not in receipt of the pensioner rebate.¹ As such, PIAC strongly supports IPART's recommendation that the NSW Government review the sufficiency of the current rebate provided to Hunter Water pensioner customers and reassesses the way in which it is calculated.²

As indicated in its initial submission to the Issues Paper, beyond the adequacy of the amount of the pensioner rebate, PIAC is concerned that some pensioners are denied access to this support on account of their residential status. Specifically, it is understood that pensioners who are private tenants or caravan park residents may not be able to access this assistance. PIAC requests that IPART recommend that the NSW Government review access to and eligibility for the pensioner rebate with a view to ensuring that the scheme is available to all pensioners.³

PIAC also asks IPART to recommend that the review incorporate effective public consultation so that consumers and advocates are afforded the opportunity to participate in the process.

Recommendation

PIAC recommends that the Independent Pricing and Regulatory Tribunal recommend that the NSW Government:

- (a) undertake a review of access to and eligibility for the pensioner rebate with a view to ensuring that the scheme is available to all pensions;*
- (b) incorporate effective public consultation in that review process.*

¹ Independent Pricing and Regulatory Tribunal of New South Wales, *Review of prices water, sewerage, stormwater and other services for Hunter Water Corporation Draft Report* (2009) 149.

² Ibid 151.

³ Mark Ludbrooke, *Hunter Water Prices: Submission to IPART Review of prices for water, stormwater and recycled water services for Hunter Water Corporation* (2008) 5.

Hardship programs

IPART acknowledges that 10 per cent of residents of the Hunter have reported difficulties paying their water bills over the last three years.⁴ PIAC submits that the implementation of a 31 per cent price increase over the next four years will lead to a significantly greater proportion of customers experiencing difficulty paying their bills. PIAC contends that Hunter Water customers must have access to adequate hardship programs to assist them to maintain access to this essential service.

PIAC welcomes IPART's interest in ensuring that Hunter Water has appropriate measures in place to assist financially disadvantaged customers who have difficulty paying their bills.⁵ PIAC requests that IPART acts on this concern by recommending that the NSW Government introduce regulatory measures to require water utilities to offer hardship programs to customers who identify themselves or are identified as experiencing hardship. PIAC notes that the National Energy Customer Framework (NECF) proposes that energy retailers will have to provide hardship programs to energy customers experiencing hardship⁶, and contends that water customers should be afforded the same level of consumer protection. These hardship programs should incorporate the provision of crisis support, debt management, referral to community services, and water efficiency initiatives. Moreover, PIAC submits that the adequacy of these programs be approved by IPART, water utilities be obliged to publicly report on their delivery of hardship programs, and IPART monitor and audit utility performance against customer service indicators.

Failing this, PIAC reiterates its request for IPART to recommend a review of the adequacy of hardship programs available to Hunter Water customers. PIAC again notes that IPART has previously proposed an evaluation of Sydney Water's social programs to ensure that appropriate measures were in place to assist vulnerable consumers to manage price increases.⁷

IPART has also recently indicated its willingness to accept a Wyong Council offer to jointly develop social programs.⁸ PIAC would welcome a similar arrangement with Hunter Water and asks that consumer and community advocates be afforded the opportunity to contribute to this process.

As noted during the public hearing, PIAC supports Hunter Water's commitment to double the water allowance for the dialysis rebate⁹ and thanks IPART for its support for this initiative. PIAC requests that IPART also acknowledge and support Hunter Water's commitment to roll out no interest loans in early 2009.¹⁰

⁴ Independent Pricing and Regulatory Tribunal of New South Wales, above n2, 147.

⁵ Ibid 148.

⁶ Ministerial Council on Energy, *National Energy Customer Framework First Exposure Draft* (2009) Division 9, 41.

⁷ Independent Pricing and Regulatory Tribunal of New South Wales, *Review of prices for Sydney Water Corporation's water, sewerage, stormwater services from 1 July 2008 Determination and Final Report* (2008) 131.

⁸ Independent Pricing and Regulatory Tribunal of New South Wales, *Gosford City Council and Wyong Shire Council: Prices for water, sewerage and stormwater drainage services from July 1 2009 to 30 June 2013* (2009) 160.

⁹ *Public Hearing for review of prices for water, sewerage and stormwater services for Hunter Water Corporation from July 1 2009* (2008) Independent Pricing and Regulatory Tribunal of New South Wales <<http://www.ipart.nsw.gov.au/files/Transcript%20-%20Metropolitan%20Price%20Review%20for%20Hunter%20Water%20Corporation%20-%20Public%20Hearing%20-%2012%20December%202008%20-%20Newcastle%20Town%20Hall%20-%20Website%20Doc.PDF>> at 20 May 2009.

¹⁰ Ibid.

Recommendations

PIAC recommends that the Independent Pricing and Regulatory Tribunal recommend that the NSW Government introduce regulatory measures to require water utilities to offer hardship programs to customers who identify themselves or are identified as experiencing hardship.

PIAC recommends that the proposed regulatory framework for hardship programs should require:

- (a) such programs to incorporate the provision of crisis support, debt management, referral to community services, and water efficiency initiatives; and
- (b) such programs be subject to approval by the Independent Pricing and Regulatory Tribunal;
- (c) water utilities to publicly report on their delivery of hardship programs; and
- (d) monitoring and audit by the Independent Pricing and Regulatory Tribunal of utility performance against customer service indicators.

Weighted Average Cost of Capital

PIAC understands that the Weighted Average Cost of Capital (WACC) has a significant impact on the size of water and sewerage price increases and that the Draft Report for Hunter Water recommends the application of a 7 per cent real pre-tax WACC for the term of the determination.¹¹

PIAC notes that the more recent Final Report for Gosford City Council and Wyong Shire Council incorporated a reduction in the real pre-tax WACC from 7 per cent down to 6.5 per cent. IPART indicated that this decline was a response to changed market parameters.¹²

PIAC hopes that IPART's review of market parameters before the Final Report for Hunter Water also leads to a reduction in the WACC and associated smaller increases in the price of water and sewerage services.

Tillegra Dam

PIAC does not support the NSW Government's decision to construct the Tillegra Dam, but notes that a decision about the appropriateness of this capital investment is outside the purview of this determination.

IPART has, however, been charged with determining how residents of the Hunter will pay for this new water supply infrastructure. On this front, PIAC notes that IPART recommends that Hunter Water customers should pay an additional \$120 towards the construction of the Dam over the course of the determination.¹³

PIAC appreciates that IPART has rejected a more costly proposal from Hunter Water by deferring some of the expense until the following determination, but questions the approach that implements a price component for customers to pay for a dam that is yet to be approved. Following a referral by Hunter Water to the Department of Environment, Heritage, Water and the Arts (DEWHA) in October 2008, DEWHA determined that the Dam was likely to have a significant impact on local wetlands and thus required assessment and approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act).¹⁴ This approval is yet to be obtained.

¹¹ Independent Pricing and Regulatory Tribunal of New South Wales, above n2, 7.

¹² Independent Pricing and Regulatory Tribunal of New South Wales, above n8, 11.

¹³ Independent Pricing and Regulatory Tribunal of New South Wales, above n2, 6.

¹⁴ Department of Environment, Heritage, Water and the Arts, *Notification of Referral Decision and Designated Proponent* (2008) <http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=4551> at 21 May 2009.

PIAC submits that IPART should properly determine that Hunter Water customers not be required to pay any amount in respect of the Tillegra Dam until approval for its construction has been granted. If approval is granted, then the determination process could be re-opened to permit Hunter Water to seek an additional price increase consistent with that approval. In the event that IPART determines that Hunter Water customers should have to pay for part of the dam in advance of its approval, PIAC submits that the determination process should be immediately reopened if the application is subsequently denied.

Recommendation

PIAC recommends that the Independent Pricing and Regulatory Tribunal defer any decision about a price component referable to the Tillegra Dam construction until the decision on approval or otherwise of that Dam is made.

Forecast Population Projections

Accurate population projections are critical to the development of long-term plans to secure the water and sewerage needs of the Hunter. With this in mind, PIAC again seeks to draw IPART's attention to the availability of more up-to-date population projections than those currently employed.

The Hunter Water submission to the IPART Issues Paper, the Review of Water Consumption Forecasts by SKM, and the IPART Draft Report for Hunter Water each refer to population projections contained within the NSW Department of Planning's *Lower Hunter Regional Strategy* from 2006. This document suggests that the population of the Hunter will increase to 160,000 by 2031. As noted in PIAC's initial submission to the Issues Paper, in October 2008 the NSW Department of Planning released the more up-to-date *New South Wales State and Regional Population Projections* that project that the population of the Newcastle (identified by the Department of Planning as the same geographical area referred to in the *Lower Hunter Regional Strategy 2006*) will increase from 517,500 in 2006 to 652,600 in 2031. That is, the region will experience an increase in population of 135,100 rather than 160,000 people.¹⁵ This is a drop in the projected population increase of more than 15 per cent and is likely to impact on water demand.

PIAC again submits that this data may moderate the need for Hunter Water to undertake such significant capital investment and that this could in turn diminish the need to introduce such significant water and sewerage price increases. PIAC asks IPART to consider these more recent figures or to clarify why these projections are not to be employed.

Recommendation

PIAC recommends that the Independent Pricing and Regulatory Tribunal consider the impact of the revised population projections for the Hunter region on the need for infrastructure development and, consequently, on the current price determination, or at minimum provide clarification in its determination of why those more current projections are not being employed in the determination.

Price Path

PIAC appreciates that IPART has given consideration to the adoption of the glide path approach, but is disappointed that it has chosen to include the P-nought adjustment. PIAC is concerned that Hunter Water customers will face the largest increase in water and sewerage prices at the same time as they will experience the recently announced 20 per cent increase in the price of energy as a result of the new market based electricity purchase cost allowance and distribution network service provider prices. With this in

¹⁵ Public Interest Advocacy Centre, above n3, 3.

mind, PIAC again requests that IPART determines that bills be adjusted by the same percentage over each year of the determination.

Recommendation

PIAC recommends that the Independent Pricing and Regulatory Tribunal distribute the effect of any approved price increase evenly over the period of the determination.

Conclusion

PIAC acknowledges that the price of water, sewerage and stormwater services will increase as a result of this determination and is very concerned that the size of the increase will lead many consumers, particularly low-income households, to experience difficulty paying their water bills.

PIAC welcomes IPART's recommendation that the NSW Government review the adequacy of the pensioner rebate and defer some of the costs of the Tillegra Dam, but advocates for additional measures to assist Hunter Water customers to maintain access to this essential service. Namely, PIAC asks IPART to take action to ensure the review of the pensioner rebate is adequate in scope; to improve customer hardship programs; to reconsider Hunter Water's return on assets; to defer the decision about the recovery of Tillegra Dam costs at this time; and to adopt a complete glide path approach to price increases.