



public interest
ADVOCACY CENTRE LTD

Access to water: Submission to IPART's review of prices for Sydney Water Corporation for the determination period commencing 1 July 2012

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Erin Halligan, Policy Officer

Energy + Water Consumer Advocacy Program

1. The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation. PIAC works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action 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. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights; and
- 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 unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) 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 Services Program. PIAC receives funding from the NSW Department of Trade and Investment, Regional Infrastructure and Services for its work on energy and water, 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.

2. Energy + Water Consumers' Advocacy Program (EWCAP)

EWCAP 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 EWCAP from a community-based reference group the members of which 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;
- Physical Disability Council of NSW; and the
- Retirement Villages and Residents Association.

3. Introduction

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to provide comment on the Independent Pricing and Regulatory Tribunal of NSW (IPART) *Review of prices for Sydney Water Corporation's water, sewerage, stormwater and other services* (the Review).

IPART is conducting this review to set the prices for water services charged by Sydney Water Corporation (Sydney Water) for the next price period, commencing 1 July 2012. The Review will assess the proposed price increases against potential customer impacts to ensure only the efficient costs of providing the regulated monopoly service are passed through to consumers.¹

IPART has prepared an issues paper to assist stakeholders in identifying and understanding the key issues for consideration, and has requested that Sydney Water submit to the Review information on the proposed price increases and an assessment of any customer impacts.² PIAC provides comment to the Review with reference to both Sydney Water's submission as well as IPART's Issues Paper.

In its submission, Sydney Water proposes a total increase of 15.1% above inflation for water prices from 1 July 2012 over a four year price path.³ Sydney Water's modeling indicates this increase is equivalent to a rise of \$166 to the water bills of average Sydney Water households consuming 200kL of water each year.⁴

According to Sydney Water's submission, one of the driving factors behind the proposed price increase is the need for the corporation to restore its financial viability after an extensive period of reduced revenue over the last two determination periods.⁵ According to Sydney Water, prices in 2011-12 were determined based on a total annual water demand forecast of 544 GL; however, actual demand ended up less than 490GL. Sydney Water contends that this has resulted in a shortfall in revenue of over \$1 billion over the last two determinations.⁶

Both IPART and Sydney Water attribute this fall in demand to a substantial uptake of water efficient behaviour by NSW households, coupled with the water restrictions imposed by the NSW Government during extended periods of drought.⁷

PIAC appreciates that Sydney Water must ensure its financial viability to continue functioning as a profitable corporate entity and maintain efficient supply of water to Sydney Water customers. PIAC is concerned, however, that this price rise is being passed through to customers while Sydney Water continues to bring in increasing profit.

¹ IPART, *Review of prices for Sydney Water Corporation's water, sewerage, stormwater and other services: Issues Paper* (2011) 2.

² Ibid 87.

³ Sydney Water, Submission to IPART, *Review of prices for Sydney Water Corporation's water, sewerage, stormwater and other services*, 16 September 2011, v.

⁴ Ibid x.

⁵ Ibid.

⁶ Ibid ix.

⁷ Ibid.

PIAC emphasises that, although water prices currently make up less than 1% of total household expenditure,⁸ these price rises do not occur in a vacuum. Since the past determination period, there has been a significant rise in the cost of living, with sharp increases to electricity bills as well as water. PIAC contends that the increasing numbers of people accessing Sydney Water's customer assistance clearly indicates the challenges being faced by many NSW consumers struggling to manage rising household bills.

PIAC believes that IPART must ensure only the efficient costs of providing Sydney Water's services are passed through to consumers through transparent and thorough evaluation of the forecast water consumption, revenue and expenditure for the next price period. PIAC also believes that any price rise must be smoothed over a reasonable price period to maximise consumer's ability to absorb bill increases, and minimise the risk of consumers experiencing price shock.

3.1 Sydney Water's financial viability

Sydney Water states throughout its submission to the Review that it must recover its reduced revenue over this next determination period to ensure the corporation can maintain its financial viability. Sydney Water contends that the revenue shortfall over the past two determination periods has contributed to the corporation accruing debt of close to \$1 billion.⁹

Although Sydney Water has stressed that it is has experienced a significant reduction in revenue, Sydney Water's annual report for 2009/10 boasts a profit after tax of \$446 million, and an increase of \$195 million from its 2008/09 profit.¹⁰

PIAC is concerned that Sydney Water is applying to recoup its lost revenue through sharp price rises to customers instead of seeking ways to offset its debt through reinvestment of profits.

PIAC is, of course, not in a position to comment in detail on Sydney Water's financial situation. However, PIAC notes there seems to be a disparity between the sentiment expressed in Sydney Water's submission to the Review and its 2009/10 annual report regarding the corporation's financial viability.

PIAC requests IPART review Sydney Water's price forecasting against the corporation's financial reports to ensure that no unreasonable costs are being passed through to consumers while Sydney Water collects increasing profit. PIAC suggests IPART investigate any opportunities for Sydney Water to redirect its profits to offset all or part of the price increases to Sydney Water customers.

4. Affordability

PIAC maintains that everyone is entitled to a supply of water necessary to secure an adequate standard of living,¹¹ and that no household should experience any restriction to their service

⁸ Ibid x.

⁹ Ibid vi.

¹⁰ Sydney Water, *Annual Report Summary* (2010) 9.

¹¹ PIAC, Submission to Australian Productivity Commission, *Inquiry into Australia's Urban Water Sector*, 30 November 2010, 2.

because of an inability to pay. PIAC believes that although water bills currently comprise a small proportion of household disposable income – 0.9% in 2008-2009 rising to 1.0% in 2015-2016 for average households¹² – many NSW households are already experiencing difficulty in paying water bills.

In its submission, Sydney Water acknowledges that the number of customers seeking financial assistance through the operator has increased significantly over the last two determination periods. Sydney Water notes that during the 2009-10 financial year, over 50,000 customers have accessed customer assistance to help cover their bill payments.¹³ Additionally, more than 224,000 pensioners received quarterly concessions for water, wastewater and stormwater charges.¹⁴ During the 2009-10 financial year, the total cost of Sydney Water's social programs was \$130 million.¹⁵ PIAC notes Sydney Water's acknowledgement that the NSW Government reimburses the corporation for most of this expenditure as Community Service Obligations.¹⁶

PIAC believes that the rise in customers accessing this assistance can be attributed to the increasing pressures of managing household expenditure. Since the last Sydney Water price determination in 2008, the typical NSW household bill has increased by close to a third.¹⁷ According to IPART's 2010 household survey, all residential utility bills have increased between 2005 and 2010. For average NSW consumers, electricity prices have increased on average by 50%, water and sewerage bills by 45%, and gas bills by 18%.¹⁸ Additionally, there have been further rises in household energy costs with average regulated electricity retail prices increasing by 17.3% across NSW from 1 July 2011.¹⁹

PIAC notes that some households have already experienced restriction to their water supply over the last determination period because of an inability to pay.²⁰ According to the 2009-2010 National Performance Report on Urban Water Utilities, the number of restrictions for non-payment of water bills for Sydney Water customers increased from 2.4 (per 1000 properties) in 2008-09 to 4.2 in 2009-10.²¹

PIAC maintains that ensuring consumers have fair and equitable access to water as an essential service must be the governing objective in this Review. PIAC believes IPART must ensure that only the efficient costs of providing Sydney Water's services are passed through to ensure that consumers are protected from any unreasonable rises in the cost of accessing water as an essential service.

¹² Sydney Water, above n 3, x.

¹³ Ibid 126.

¹⁴ Ibid.

¹⁵ Ibid 125.

¹⁶ Ibid.

¹⁷ Ibid 17.

¹⁸ IPART, *Residential energy and water use in Sydney, the Blue Mountains and Illawarra: Results from the 2010 household survey* (2010) 34.

¹⁹ IPART, *Final Report – Changes in regulated electricity retail prices from 1 July 2011*, (2011) 2.

²⁰ PIAC, above n 11, 4.

²¹ National Water Commission, *National Performance Report 2009-2010 Urban Water Utilities* (2010) <<http://www.nwc.gov.au/www/html/3031-npr-urban-2009-10.asp?intSiteID=1>>.

4.1 Forecasting water sales

According to Sydney Water's submission, a significant portion of the proposed 15.1% price increase is due to shortfalls in water consumption over the last two determination periods. PIAC understands that this decline in revenue has left Sydney Water financially vulnerable.

PIAC understands that the reasoning that forecast water sales fell below expectation over the last two determination periods was due to water restrictions being enforced longer than predicted as NSW emerged from a long period of drought.²² Although the water restrictions technically ended in June 2009, they were replaced with Sydney Water's 'Water Wise Rules'.²³

Sydney Water implemented the Water Wise Rules to meet its water conservation obligations under the corporation's operating licence. Sydney Water reports the Rules to have been successful in achieving household water efficiency.²⁴ As stated in Sydney Water's Operating Licence 2010-15, Sydney Water must:

Reduce the quantity of drinking water it draws from all sources to a level of water usage equal to, or less than, 329 litres per person per day (the water usage level) by 30 June 2011. Thereafter, Sydney Water must continue to maintain the water usage level for the remainder of the term of the licence, to be measured at 30 June each year.²⁵

As a result of the water efficiency programs, Sydney Water customers have become conservative water users.²⁶ Although Sydney Water acknowledges that continued water efficiency by its customer base is a good outcome, Sydney Water is dependent on consumption to cover its costs.²⁷ Sydney Water contends that this low water demand was not fully forecast in the last determination period. As a result, water sales fell well below the volumes forecast by Sydney Water.²⁸

This inconsistency was noted in PIAC's submission to the 2008 review of Sydney Water's prices. As part of the 2008 review, PIAC pointed out that the water conservation target of 329 litres per capita per day in the operating licence was inconsistent with Sydney Water's consumption forecast of 426 litres per capita per day.²⁹

Sydney Water states that its revenue shortfall over the last two determination periods, from 2005-06 to 2011-12, is close to \$1 billion.³⁰ According to Sydney Water, prices in 2011-12 were determined based on a total annual water demand forecast of 544 GL, with actual demand predicted to be less than 490GL.³¹ PIAC understands Sydney Water has budgeted \$41 of the average price increase of \$166 to make demand adjustments for the next determination period.³²

²² Sydney Water, above n 3, 5.

²³ Ibid.

²⁴ Ibid 7.

²⁵ Sydney Water, *Operating Licence 2010-15* (2010) 30
<<http://www.sydneywater.com.au/Whoweare/OperatingLicence/>>.

²⁶ Ibid 8.

²⁷ Ibid.

²⁸ Ibid.

²⁹ PIAC, Submission to IPART, *Draft Determination: Review of prices for Sydney Water Corporation 2008-2012*, 23 April 2008, 3.

³⁰ Sydney Water, above n 3, vi.

³¹ Ibid ix.

³² Ibid x.

PIAC appreciates that Sydney Water has faced competing objectives in meeting its water efficiency obligations under its operating licence while forecasting consumption to maintain its revenue. As such, PIAC believes it is essential that the forecasting over this next determination period is robust, realistic and as accurate as possible to ensure consumers are not burdened with unreasonable costs from further shortfalls in the future.

PIAC notes that IPART has recommended a new approach to forecasting water consumption by measuring an average of recent consumption data. IPART contends that this method will more accurately reflect water consumption conditions,³³ and helps ensure that the utility will always recover its costs.³⁴ IPART has tested this methodology in its 2010 Determination for State Water's bulk water prices. PIAC supports this approach to make water price forecasts for this determination as accurate as possible to ensure that unreasonable costs do not get passed through to consumers.

Recommendation

PIAC recommends IPART use an average number of years approach to evaluate consumption data, as used in the 2010 State Water determination, to accurately account for the reduced consumption patterns that have been recorded over the past two determination periods.

4.1.1 Cost recovery

PIAC is concerned that consumers are currently set to bear the costs of Sydney Water's reduced revenue due to falls in water consumption from efficiency programs that consumers have been actively encouraged to engage in.

PIAC suggests that Sydney Water and IPART scope opportunities for Sydney Water to absorb some of these extra costs through other operational efficiency gains as part of this review process. For example, PIAC understands that the NSW Government has announced that the Sydney Desalination Plant (SDP) is soon to be refinanced via a long-term lease.³⁵ IPART is currently undertaking a review of SDP's drinking water prices and it is expected to be complete by the end of 2011.³⁶ Sydney Water contends that the refinancing of SDP will not impact on Sydney Water's prices to its customers.³⁷

PIAC suggests that IPART, Sydney Water and the NSW Government investigate opportunities for the revenue raised from this leasing arrangement to be reinvested to offset some of Sydney Water's lost revenue. PIAC believes that if there are any profits or gains from the SDP leasing arrangement, these funds should be redirected to offset some of the extra costs currently being passed through to consumers.

³³ IPART, above n 1, 68.

³⁴ Ibid.

³⁵ Sydney Water, above n 3, viii.

³⁶ Ibid 6.

³⁷ Ibid.

4.2 Length of determination period

IPART has requested stakeholder advice on the appropriate length for Sydney Water's price path for the period commencing 1 July 2012. Sydney Water has proposed a four year price period for this next determination.

Sydney Water contends that a three year period may offer consistency with the review of its operating licence, but it will not provide long term financial certainty for planning purposes.³⁸ A five year period would not provide adequate flexibility to meet supply dynamics, particularly any major issues that arise unexpectedly.³⁹

PIAC agrees with Sydney Water that a four year period is the most suitable length for this price determination. PIAC contends that a shorter price period would mean having more price determinations over less years; any longer and it becomes difficult to accurately forecast revenue and expenditure.

Recommendation

PIAC recommends that IPART continue setting a four year price determination period for Sydney Water commencing 1 July 2012.

4.3 Price path

PIAC recommends that IPART maintain a glide path approach when setting price increases for Sydney Water over the four year determination period. PIAC believes the benefit of setting a price path in this manner allows for any increases to be weighed against the damage that may be caused by price shock, and any sharp rises may be smoothed out to reduce any negative customer impact.

Sydney Water has calculated the forecast 15.1% price increase will be equivalent to an increase in price of \$166 for average households consuming 200kL of water a year. Sydney Water proposes for this amount to be spread out over the determination period between 2012-2016.⁴⁰ Sydney Water modelling indicates this is an increase from \$1105 to \$1271 over the price path. This is an average increase of 3.7% each year, before inflation.⁴¹

Based on the modelling proposed in Sydney Water's current price path, PIAC has calculated the increases for household bills for average customers as \$103.87 in 2012-13, \$23 in 2013-14, \$21 in 2014-15, and \$20 in 2015-16.⁴²

PIAC understands that Sydney Water has planned the initial steep increase of \$103 in the first year because of a need to bring up its revenue in the short term, and prevent further increases in costs in the long term. However, PIAC is concerned that many low-income households do not have the capacity to absorb the initial acute price increase in the short term, as under Sydney Water's proposed current price path.

³⁸ Ibid 13.

³⁹ Ibid.

⁴⁰ Ibid 125.

⁴¹ Ibid.

⁴² Ibid.

PIAC recommends IPART and Sydney Water find a compromise in the initial rise in the proposed price path. PIAC believes that it is essential to smooth price increases over the determination period to better support customers to absorb any increases and reduce any risk of bill shock. PIAC contends that a rise of \$103 in the initial year is an excessive cost that many low-income households may have difficulty in absorbing. PIAC recommends that this amount be spread out over the first two years instead as a fair compromise.

Recommendation

PIAC recommends that IPART review Sydney Water's price path and seek to spread the initial acute cost increases over two years instead of one to assist customers to absorb the increase.

5. Customer assistance

PIAC contends that a strong consumer protection framework is essential to ensuring that all customers maintain access to water and other essential services, especially those experiencing hardship.⁴³ However, PIAC also submits that it is unreasonable to assume that the establishment of a framework alone will adequately respond to the needs of all customers experiencing payment difficulties.⁴⁴

As previously noted, the number of people seeking assistance through Sydney Water's customer assistance schemes has steadily increased over recent years. In the 2009-10 financial year, Sydney Water evaluated the total cost of running its social programs at \$130 million, with most of this expenditure reimbursed by the NSW Government as Community Service Obligations.⁴⁵

PIAC understands that Sydney Water recently undertook an extensive review of its social programs and developed a new Payment Assistance Strategy, which aims to improve Sydney Water's delivery of financial assistance to customers experiencing financial hardship.⁴⁶

The objectives under the Payment Assistance Strategy include:

- increasing proactive assistance;
- flexible billing options;
- a Home Maintenance and Plumbing Fund to assist customers in acute hardship, who are in need of emergency plumbing repairs;
- continued sponsorship and expansion of the No-Interest Loan Scheme (NILS); and
- implementing a communications and engagement plan to build customer awareness.⁴⁷

PIAC understands Sydney Water has already committed an extra \$1.3 million to develop financial assistance initiatives over 2011-12 as part of this Payment Assistance Strategy.⁴⁸ PIAC welcomes Sydney Water's commitment to improving the delivery of assistance to its customers,

⁴³ PIAC, above n 11, 5.

⁴⁴ Ibid.

⁴⁵ Sydney Water, above n 3, 125.

⁴⁶ Ibid 126.

⁴⁷ Ibid.

⁴⁸ Email from Kevin Young, Sydney Water Managing Director to Edward Santow, PIAC Chief Executive Officer 16 September 2011.

particularly those experiencing financial hardship. PIAC also understands that Sydney Water will provide more detailed information on the Payment Assistance Strategy later this year. PIAC notes that without access to this information as part of this review process, it is difficult for PIAC and other consumer stakeholders to provide more meaningful public comment on Sydney Water's design of the Payment Assistance Strategy, or the proposed expenditure of the \$1.3 million.

PIAC recognises that Sydney Water has identified similar objectives for enhancing customer assistance in this pricing determination as it has in previous pricing determinations. In IPART's 2008 review of Sydney Water's prices, Sydney Water proposed very similar enhancements to the existing hardship program. In the 2008 submission, Sydney Water planned to:

- Extend the coverage of assistance to large, low-income families;
- Provide further funding for the No Interest Loans (NILS) scheme that assists low income customers to buy water efficient appliances;
- Work with the providers of the Home Maintenance Service; and
- Pilot tap-turning program.⁴⁹

PIAC found it difficult to locate detailed, publicly available information on the implementation and expenditure Sydney Water invested in its proposed customer assistance programs since the last determination. This makes it difficult to provide public comment on the progress of Sydney Water's customer assistance over this period.

PIAC recommends that Sydney Water provide regular public reports on its customer assistance programs in future, particularly the new initiatives designed under the Payment Assistance Strategy in this determination. PIAC believes these reports should include detailed information on the finances allocated for each program, as well as information on how this money has been expended over the determination period.

PIAC welcomes Sydney Water's introduction of a communication and customer engagement plan. PIAC notes that it is currently difficult to access customer assistance information on Sydney Water's website, and is concerned that many Sydney Water customers remain uninformed about the assistance available to them. For example, one of Sydney Water's core customer assistance mechanisms is the Payment Assistance Scheme (PAS). Under PAS, Sydney Water customers experiencing financial hardship can access payment vouchers to assist them covering their water bills. According to IPART's 2010 Research Report *Residential energy and water use in Sydney, the Blue Mountains and Illawarra*, only 9% of Sydney Water customers who had experienced difficulty paying a water bill had received a PAS voucher.⁵⁰ The most common reason these consumers identified for not receiving a PAS voucher was that they were unaware of the program.⁵¹

PIAC believes Sydney Water's communication and customer engagement plan will assist overcoming this shortfall. PIAC hopes that the plan will assist customers understand the proposed changes to customer assistance available under the Payment Assistance Strategy, as

⁴⁹ Sydney Water, Submission to IPART, *Review of prices for Sydney Water Corporation*, 14 September 2007, 96-97.

⁵⁰ IPART, *Residential energy and water use in Sydney, the Blue Mountains and Illawarra: Results from the 2010 household survey* (2010) 143.

⁵¹ Ibid.

well as build consumer awareness of existing assistance measures. PIAC recommends that the materials provided to consumers include simple, plain English information on the existing customer assistance programs, including availability, eligibility requirements and application procedures, to ensure all vulnerable consumers are fully aware of existing assistance they may be eligible for.

PIAC recommends that customer assistance information be made accessible on the front page of Sydney Water's website. PIAC believes it is important that customer assistance information is available well before the forecast price rises come into effect. In PIAC's view this will enhance Sydney Water's Payment Assistance Strategy by helping ensure vulnerable consumers have access to information about all of the financial assistance available to them.

Recommendation

PIAC recommends that Sydney Water make publicly available budgets and plans for its \$1.3 million investment in customer assistance and publicly report on this expenditure throughout the determination period.

PIAC recommends that Sydney Water enhance its communication and customer engagement plan by providing simple, plain English information on existing customer assistance schemes as well as any new initiatives. PIAC also recommends that this information be made available on the home page of Sydney Water's website.

6. Conclusion

PIAC would like to thank IPART for the opportunity to contribute to this consultation process.

PIAC appreciates that Sydney Water needs to secure its revenue over the next determination period after shortfalls in revenue over the past two determination periods. PIAC is concerned, however, that the proposed price rise is being considered while Sydney Water continues to bring in increasing profit, and that this price rise may result in bill shock for many NSW consumers.

PIAC maintains that it is the responsibility of Sydney Water and IPART to ensure only the efficient costs of providing Sydney Water's services are passed through to consumers — while taking account of revenue shortfalls and changing operating expenses.

It is PIAC's hope that a smooth price path and valuable customer assistance programs will assist consumers absorb any increases in costs that arise from this determination.