



Positive changes to the Customer Contract

Response to the review of Hunter Water operating licence

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Energy + Water Consumers' Advocacy Program

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that 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;
- 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 also receives funding from NSW Trade and Investment for its work on energy and water, and from Allens 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 Consumers' Advocacy Program

This Program was established at PIAC as the Utilities Consumer's 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;
- Tenants Union of NSW;
- Ethnic Communities Council of NSW;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW; and
- Good Shepherd Microfinance.

Introduction

PIAC welcomes the opportunity to provide comment on IPART's Review of Hunter Water Corporation Operating Licence Issues Paper.¹

The *Hunter Water Act 1991 (NSW)* (the Act) requires Hunter Water to have an operating licence that outlines the obligations and requirements for supplying water, providing wastewater services and meeting customer obligations and protections. There is a requirement to regularly review the operating licence, and each licence period is set for a maximum term of five years.

IPART has released an Issues Paper to identify the key areas where the licence may need updating or review. Hunter Water has provided its submission² in response to the Issues Paper. PIAC will be providing comment on both documents.

This review of the current operating licence is occurring after the most recent price determination for Hunter Water. Hunter Water has indicated that it would prefer the licence review to occur prior to the price determination as the licence conditions influence capital and operating expenditure. PIAC agrees that there is merit in better aligning the timing to ensure the licence review is able to influence the price determination.³

Customers and stakeholders in a number of different forums, including consultation regarding the Sydney Water price determination and the Metropolitan Water Plan review, have identified liveable cities as an increasingly pertinent issue and consider that urban water utilities play an important role in developing liveable cities. While this topic has not been raised specifically with reference to Hunter Water, it was raised during the price review for Sydney Water.⁴ Although IPART has considered the issue, both IPART and Sydney Water may have limited scope to address this as liveability is currently not a criteria or condition of Sydney Water's operating licence. Therefore, it may be useful to begin to have the conversation about the role of water in liveable cities and how these issues can be addressed through the operating licence and thus in the price determinations for both water utilities.

Water quantity

During the recent drought, the operating licences for both Hunter Water and Sydney Water were amended to ensure that both utilities were addressing water scarcity concerns. New licence conditions were introduced, including water conservation, leakage prevention and recycled water targets. Both utilities have met and continue to meet these targets, and as such they are no longer considered necessary. During its recent licence review, Sydney Water proposed the Economic Level of Water Conservation (ELWC) as a new framework to assess and implement water conservation measures, which IPART adopted. Sydney Water has been making progress on developing the principles and method for this framework. PIAC was supportive of this change

¹ IPART *Review of the Hunter Water Corporation Operating License, Water Licensing – Issues Paper*, May 2016.

² Hunter Water *submission to IPART's Issues Paper, Review of the Hunter Water Corporation Operating Licence*, 15 July 2016.

³ *Ibid* 10-11.

⁴ IPART *Review of prices for Sydney Water Corporation, Transcript of Public Hearing* 10 November 2015, 19 and 24.

and has been involved in conversation with Sydney Water about their approach and issues paper.⁵

PIAC would be supportive of Hunter Water adopting an ELWC approach to water supply and conservation planning. Hunter Water is a member of the Interagency Reference Group and has experience developing an Economic Level of Leakage framework, which PIAC believes will assist Hunter Water in developing an ELWC framework. Hunter Water has proposed a six-month timeframe to develop an approach and principles, and 12 months to develop the methodology. PIAC supports this timeframe, although it considers that Hunter Water could utilise lessons learned from Sydney Water as they progress through this process.

Hunter Water has proposed removing current conservation targets from the next operating licence, before seeking IPART approval of an EWLC method. PIAC notes that Sydney Water's operating licence maintains the current targets, which will only be removed once its EWLC method is approved. PIAC contends that this is an appropriate process and Hunter Water's targets should remain until such time as the EWLC is finalised and ready for implementation.

Recommendation

PIAC recommends that Hunter Water's conservation targets remain in place until IPART approves its EWLC methodology.

Customers and Consumers

Hunter Water has proposed modest changes to the Customer Contract to improve readability, clarity and consistency with legislation and Sydney Water's Customer Contract, where appropriate. PIAC supports these improvements as the Customer Contract is a complex document outlining service obligations and customers' rights and responsibilities. PIAC considers there may be additional benefit in providing a one-page plain English summary of the key provisions in the Customer Contract, similar to that produced by Scottish Water to improve customer understanding of the contract.⁶

Recommendation 2

PIAC recommends that Hunter Water provide a one-page plain English summary of the Customer Contract to improve customer understanding of their rights and obligations.

Rebates

Hunter Water provides service rebates for planned interruptions, low flow and dry weather wastewater overflow. The value of rebates is based on multiples of 15 kilolitres of water usage and indexed to inflation.⁷ This rebate method provides benefit to tenants who pay the water usage and who are the people who experience the inconvenience the rebate is designed to address.

⁵ Sydney Water's Methodology for Determining its Economic Level of Water Conservation Issues Paper, 29 April 2016.

⁶ Scottish Water, Our services – your rights. Our customer charter. 3-5.

⁷ Hunter Water see above n 2, 41.

Planned interruption rebate

Hunter Water has proposed changing the eligibility criteria for a planned interruption rebate. Currently customers receive the rebate if there are three or more interruptions, each lasting longer than five hours. Hunter Water has proposed changing this to ‘three or more interruptions between 5am and 11pm, each exceeding five hours’.⁸ This is based on feedback from customers that they would most likely be inconvenienced during these hours. The revised eligibility criteria does not appear to materially impact customers and PIAC supports this change.

Dry weather wastewater overflow rebate

Hunter Water has also proposed modifying the rebate for wastewater overflows to better capture customers who experience two or more events in a 12-month period. The current rebate is structured so that a customer receives a rebate equivalent to 30 kilolitres for the first event, no rebate for the second event, and a rebate equivalent to 150 kilolitres for the third event. The proposed changes include providing a rebate for a second event equivalent to 60 kilolitres, and reducing the rebate for the third event to 60 kilolitres.⁹ If a customer experiences three events in a year, they will still receive the same total amount of rebate that is spread over three events, rather than two payments for three events. PIAC considers that this is a more equitable approach, as customers who experience only two events will be compensated twice rather than once.

Low water pressure rebate

Finally, Hunter Water has proposed changes to the rebate for low water pressure. This rebate has previously been reviewed twice: the stand-alone Customer Contract review in 2010-11, and the previous operating licence review in 2011-12. During these reviews both PIAC and the Energy and Water Ombudsman NSW (EWON) contended that the application and eligibility criteria of this rebate should more closely mirror Sydney Water’s. Currently, customers are required to notify Hunter Water of low pressure, after which Hunter Water will attend the property to monitor the pressure at the point of connection. Customers are eligible for the rebate if low pressure lasts longer than 30 minutes. However, the rebate is only payable on the sixth event in a 12-month period. Conversely, Sydney Water does not require the customer to report low pressure as they can detect low pressure via monitoring. Their customers receive a rebate for one event per quarter if the event exceeds 15 minutes. In considering whether there is value in adopting PIAC and EWON’s suggestion, IPART assessed the costs and benefits of Hunter Water adopting Sydney Water’s approach and found that the benefits did not outweigh the costs.¹⁰

Hunter Water has acknowledged there are issues with the current rebate criteria and has proposed an intermediate approach. The new approach has a new method of identifying affected customers through modeling, based on performance monitoring standards that is conducted annually as part of Hunter Water’s operating audit. It is automatically applied to the customers next bill. The new approach also provides a rebate for one event in a 12-month period, rather than after the sixth event.¹¹ PIAC considers that this is an improvement and welcomes Hunter Water’s commitment to addressing the concerns raised by PIAC and EWON.

⁸ Ibid 42.

⁹ Ibid 44.

¹⁰ Ibid 44.

¹¹ Ibid 45.

Conclusion

Hunter Water has sought to improve clarity and understanding of the Customer Contract by refining definitions and re-ordering clauses. PIAC supports these moves, as the Customer Contract is the key document that outlines the roles and responsibilities of Hunter Water to residential and small business customers and outlines customer's rights to access water. PIAC supports Hunter Water's moves to improve the eligibility criteria and equity for the service rebates. While Hunter Water's proposed changes to the low pressure rebate are an improvement on current practice.