

13 March 2018

Water Team
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Dear Sir/Madam

Submission: Comment on Early Draft Decisions

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Essential Service Commission's (**ESC**) early draft decisions in the 2018 Water Price Review.

Access to water is a basic human right, and the ESC must ensure that water remains affordable, especially for low income and vulnerable consumers. Pricing reviews are not just technical or economic processes but have real-life impacts for millions of Victorians. We are encouraged that the ESC has shifted its focus substantially in this pricing period with increased emphasis on customer outcomes, the prices consumers will pay and things they value most. We are broadly supportive of the PREMO framework and are pleased to see many positive signs that the framework is working to deliver outcomes that align with what customers want and expect from their water company.

Price paths for these four draft decisions are mixed. We are particularly concerned with the increasing price path proposed by Westernport Water and the justification to keep tariff structures unchanged.

The customer engagement undertaken by the four businesses was sound. However, we detail some concerns below particularly over the way results are published and customer preferences are inferred.

Many corporations in this Price Review have undertaken engagement on digital meters and paper billing. We believe the ESC should play a role in regulating these emerging issues to ensure uniformity across water businesses and that customers are protected from any unintended consequences.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians.

Prices and Tariffs

Victorians are finding it increasingly difficult to cover the costs of their essential services – every week Consumer Action’s financial counsellors hear from people who are often at real risk from restriction or disconnection. This can be due to income insufficiency, or a combination of issues that result in inability to pay. The ESC’s role through the water price review plays a tangible and significant role in ensuring water bills take into account vulnerable and disadvantaged Victorians and we encourage an ongoing focus on this social aspect of price regulation.

We are pleased to see prices for the majority of water corporations decreasing or stabilizing in this regulatory period. In the last Water Pricing Review (2013-18) many price paths contained significant price increases which continued a longer trend of rising water bills in Victoria. Major augmentation decisions, particularly the construction of the Wonthaggi desalination plant, were the main drivers behind these price rises.

In the last pricing period, higher bills were offset in part due to a government efficiency rebate announced in 2014 and implemented over 4 years. The rebate was applied inequitably across the state (some Victorians saw no reduction on their bill in real terms) and is due to end in June 2018. The end of the rebate has been addressed differently depending on the water corporation. In these 4 draft decisions, Yarra Valley Water (**YVW**), South East Water (**SEW**) and East Gippsland have adjusted their variable and fixed charges to ensure the end of the rebate has a minimal impact on typical bills. This is in line with the government’s expectation that water bills will remain stable, as outlined in *Water for Victoria*,¹ and efficiencies underpinning the rebate would be converted into permanently lower prices.

Westernport

Westernport has not proposed any major changes to variable and fixed water and sewerage charges. As a result, a typical customers’ bills will jump in the next regulatory period – increasing \$23 per annum for owner occupiers and \$29 for tenants. These increases would likely be greater for permanent residents in Westernport’s catchment who likely use more than 80kL per annum.² Westernport’s customer engagement found that that reducing the cost of water services was the second highest preference for their customer base.³ Addressing this customer preference has primarily been through increasing hardship support. We see a disconnect between customer preferences for more affordable services and the actions proposed by Westernport to address these preferences. Reducing the overall costs of a service is different to assisting those families and individuals who may struggle to pay for that service.

The ESC’s draft decision for Westernport notes that increases in non-controllable operating expenditure is a key factor behind the increases in customer bills.⁴ All corporations who received fast-tracked draft decisions have flagged increases in non-controllable operating expenditure. Although Westernport’s increase in non-controllable operating expenditure exceeds the value of the 2017-18 rebate (by \$0.24 million) the jump in a typical customer’s bill in 2018-19 is almost equal to the amount of the rebate (\$0.54 million). Further, the draft decision notes that bulk charges for Westernport’s Thompson River entitlement is forecast to reduce between 2021-23 yet typical water and sewerage bills will remain flat.

We are critical of the fact that Westernport did not adequately consult its customers on proposed price increases. The price paths proposed by Westernport – a jump in the first year followed by increases tied to CPI – do not feature in the engagement section of their submission.

¹ State of Victoria, *Water for Victoria*, available at: <https://www.water.vic.gov.au/water-for-victoria>, pg 163.

² See Westernport’s price submission for figures on permanent and occupied dwellings, pg 53.

³ Westernport Water Price Submission, pg 15.

⁴ Essential Services Commission, Westernport Water draft decision, pg 12.

Proposed prices for 2018-23 will see reductions in typical bills for SEW and YVW customers, including tenants. SEW and YVW customers who use low amounts of water will see increases to their bill due to the end of the rebate.⁵ These different outcomes, dependent on the amount of water consumed, highlight challenges faced by some water corporations balancing the end of the government rebate whilst trying to avoid price shocks for the majority of their customers. East Gippsland customers' bills will remain relatively stable over the five years (typical tenant customers face a \$10 jump in 2018-19) increasing with CPI.

Smooth Price Plans

Smoothing bill payments is already common in the water sector. Many businesses – in essential services and elsewhere - recognise that breaking up payments into smaller increments benefits both the company (who are able to recover their costs without having to allocate staff to follow up unpaid or overdue bills) and customers who may face difficulty paying large bills in one transaction.

Many of the Victorians calling the National Debt Helpline telephone financial counselling service are on fixed incomes and/or very tight budgets which are often managed extremely meticulously. Financial counsellors stress that even small increases in an individual's quarterly bill can have consequences that should not be underestimated. On an emotional level it is also important that any bill increases are smoothed out – bill increases can create significant stress for those with little disposable income. This stress can be mitigated by avoiding price shocks.

Westernport has proposed an increase to typical bills in the 2018-23 regulatory period. We also note that South Gippsland Water, Gippsland Water, and Wannon Water have proposed bill increases with draft decisions for these corporations due in late March. The ESC has a mandate to ensure price shocks are avoided and that the interests of low income and vulnerable customers are considered. Smoothing out any bill increases over the 5-year regulatory period is vital to ensure low income and vulnerable consumers do not face undue hardship or bill shock.

We acknowledge the complexities involved in determining the most appropriate price paths, even when small price increases are required, as there are pros and cons to each approach and different customers have different preferences depending on their capacity to absorb the increase. A matched price path allows water retailers to match cost with revenue. While a smooth price path minimises bill shock, it results in higher total prices for customers over the sum of the pricing period because the water retailer has higher borrowing costs in the initial years.

The preference for the smooth or matched price path also depends on the cost of each of these options to the business. This, in turn depends on the cost of financing the smooth option. If the cost of finance (or debt) is low then the smooth price path becomes more affordable. Conversely, if the cost of finance is high then the matched price path is likely a more affordable option for consumers. Consumer Action has commissioned an independent report on the allowed cost of capital for Victoria's regulated water companies. We intend to make a separate submission to the ESC on these topics in the near future.

Tariff structures

As we mentioned in our Initial Feedback, tariff structures can be complex and require a technical level of understanding to consider the pros and cons of different approaches. Adjusting tariffs also necessitates trade-offs or compromises—between cost recovery, efficiency, social or equity grounds and simplicity. We are pleased to see SEW, YVW and Westernport undertake engagement on tariff structures with its customers. East Gippsland notes it altered its tariff structure in the 2008-13 regulatory period and has proposed to keep the current arrangements in place. It appears there was no engagement undertaken on tariff design.

⁵ For example, SEW tenant customers using 90kL p.a. will see an increase of \$13 or 4.7%.

Engagement

As we noted in our initial feedback to the ESC, there are many different forms of engagement and a range of factors that can extricate effective and meaningful engagement from poorer forms of consultation.⁶ On the whole, the four draft decisions demonstrate sound engagement that has been tailored to suit each business's circumstances and customer base. We note that the ESC has not set out to assess the effectiveness of a water corporation's customer engagement.⁷ However, when evaluating the engagement of each water corporation, we believe the ESC could play a greater role to promote best practice customer engagement and identify areas for improvement.

SEW's customer engagement demonstrated a sound, representative and genuine engagement process with small focus groups being the preferred method used to work through specific issues such as tariff design or Guaranteed Service Level (GSL) payments. Online communities, surveys, a billing simulator, and interviews in the field were also used by SEW during their engagement period.

SEW's engagement may have been improved by linking the different parts of the engagement program. For example, it is unclear from SEW's submission as to how the quantitative survey phase expanded on previous engagement work by SEW and then fed into the issues examined by the focus groups. This is not to say the process was lacking. Connecting different aspects of the engagement program may have allowed aspects to feed into one another more readily and knowledge gained by participants on one area of SEW's operations to carry over and inform consultation on other aspects. This would also allow feedback loops to occur - ie: how customer input was assessed and incorporated into the decisions reached and check back in with the relevant customers as to whether this adequately captured the views of the group.

YVW engagement program built up through 4 stages of engagement work with their customers and culminated in a citizens' jury. Strengths of citizens' juries include empowering participants to make informed and collective choices whilst reducing power imbalances between the community and business at the same time. Citizens' juries can also present some risks including manipulation of the jury or process and can be undermined if the organization convening the jury is not committed to accepting the recommendations.

YVW's Citizens' Jury appears well designed, had a commitment from the company including the YVW Board and displayed many elements of sound engagement practice. These include:

- a transparent engagement process with a clear purpose and objectives
- allowing adequate time to consult on issues
- capturing a diverse group of people and harnessing the group's experience and expertise
- allowing the engagement processes and outcomes to challenge pre-existing views

Billing simulators

Engagement that attracts a large number of responses is different from engagement that is well designed, purposeful and sets out to challenge existing views and target underrepresented groups. We are somewhat skeptical of tools such as billing simulators as they do not adequately reflect real world situations. For example, setting the average annual bill at \$1000 is an unrealistic indicator for the majority of consumers as billing is usually quarterly and likely to be far less than \$1000, especially for tenants. The impact of the \$100

⁶ Consumer Action Law Centre, *Initial Feedback, 2018 Price Review*, November 2017, available at: <https://www.esc.vic.gov.au/wp-content/uploads/2017/11/2018-water-price-review-submission-consumer-action-law-centre-barwon-water-20171115-1.html>

⁷ Essential Services Commission, 2018 Water Price Review Guidance Paper, pg 25.

rebate over the past 4 years may have also impacted people's perceptions of their bills. Moreover, research demonstrates how the design and digitalization of online studies can impact individuals' choices and biases.⁸ Comments from customers who used the billing simulator indicate a level of skepticism or misunderstanding.⁹ Online tools also don't allow customers to ask questions or clarify points and for the business to educate participants. Many thought the billing simulator must be a precursor for higher bills and 60% thought SEW was privately owned or did not know it was government owned, which could impact the engagement. The simulator might be a valuable learning tool within the wider consultation context, but we are wary of relying too heavily on findings from such an exercise. We note that YVW developed a billing simulator but decided to use it as an education tool following customer feedback.¹⁰

Interpreting results

We have some issues with the way results and feedback gained from the engagement was interpreted and proposed outcomes justified. For example, SEW note that "More than 30% support funding for digital metering" and "More than 40% support bill savings by changing to eBills and direct debt".¹¹ These results are presented in an ambiguous or confusing way and could imply that 70% do not actually support additional funding for digital meters and that 60% of surveyed customers would not switch to eBills and direct debit. Additionally, the claim that there is "Low support for those in need..."¹² is challenged by the fact that 1 in 4 people do support additional funding to support vulnerable customers.¹³

Westernport's customer engagement on tariffs and prices variously noted that customers were mixed in their satisfaction regarding pricing structure.¹⁴ A subsequent engagement workshop found that around 60% supported a reduction in fixed costs and related increase in variable charges.¹⁵ Despite this, variable and fixed charges remain relatively static in the 2018-23 period. We do not believe Westernport has adequately addressed this in their submission. Mixed responses might identify an area of confusion and an opportunity for further engagement.

Recommendation

The ESC provide a more detailed assessment of a water business's engagement performance in their draft decisions, to promote best practice customer engagement and identify areas for improvement.

Regulatory periods

Consumer Action recommends that regulatory periods should be the same for all water corporations unless special circumstances necessitate allowing a different regulatory period. There are a number of reasons for this.

Water Price Reviews affect all Victorians but awareness of these processes is not widely known. Community awareness is more likely to be generated when a state-wide price review is underway rather than smaller rolling reviews for each corporation. Media interest, and therefore wider public interest, is also greater when a review process is state-wide.

⁸ For example, see: Jonah Lehrer and Shlomo Benartzi, *The Smarter Screen: Surprising Ways to Influence and Improve Online Behavior*, Penguin Random House, 2015.

⁹ GfK report, *The SEW Billing Simulator – Customer views on priority outcomes*, July 2017.

¹⁰ Yarra Valley Water Price Submission 2017, pg 20.

¹¹ South East Water 2018 Price Submission, pg 13.

¹² Ibid.

¹³ Above n 9.

¹⁴ Westernport Water Price Submission 2018-23, pg 6.

¹⁵ Westernport Water Price Submission 2018-23 (Stage Three – Let's Talk Pricing Submission Engagement Workshops), pg 14.

There are limited people working at the intersection of consumer advocacy and water policy both in Victoria and Australia. Our role in this review was made possible by a funding arrangement that will conclude at the end of the price review. Effective consumer representation in water is currently constrained by a lack of resources and has been this way for a number of years. Compared to the energy sector, there are very limited funding sources for consumer advocacy in water policy and advocacy.

Consumer advocates provide expert knowledge and vital representation of consumer issues to inform and improve policy development and engagement across a range of policy areas, including water. The challenges facing urban water provision, including the impacts of climate change through more severe and frequent droughts, means Victorians will be increasingly affected by water policy decisions, including through Water Price Reviews.

Digital/Smart Water Meters

We note that a number of businesses in this pricing period intend to commence digital meter rollout in the 2018-2023 period. Many in the community will remember the controversial implementation of smart meters in the energy sector and we are wary that an poorly designed, communicated and implemented smart meter program by Victorian water corporations could result in a similar backlash, despite the benefits smart meters can provide.

We strongly support the ESC's position, as outlined in the South East Water and Yarra Valley Water draft decisions, that water businesses must define "success criteria" before any digital meter rollouts beyond initial pilots and that a full rollout should be expected to "deliver a positive net present value" for water corporations.¹⁶ Digital technologies have great potential to assist water companies manage their operations with benefits including greater capturing of data and early leak detection. All customers should benefit from any rollout of digital meters and how these benefits are to be realised should be fully articulated by water businesses. This would ensure that all customer segments – for example, those with special requirements, older Victorians, or less tech-savvy individuals – are adequately considered.

Additionally, we encourage the ESC to work with water corporations to develop principles that will guarantee digital meter roll outs are in the long-term interests of customers and have particular regard to the needs of vulnerable consumers during any future rollouts. We want consumers in vulnerable situations to feel supported and comfortable throughout any meter installation process.¹⁷

Developing user facing technologies as part of digital meter trials and potential rollouts could also benefit from collaboration across the Victorian water industry. We note that the metropolitan businesses have already been working together on digital meters. Creating economies of scale to purchase or develop new technology is in the interest of customers who will ultimately foot the bill of digital meter pilots and/or rollouts. We also urge the water sector to heed lessons from the energy space. Smart energy meters were touted as a game changer for Victorian households but have so far failed to deliver on this promise for the energy market or customers.¹⁸

¹⁶ ESC South East Water draft decision pg 17 and ESC Yarra Valley Water draft decision pg 16.

¹⁷ Although facing slightly different circumstances than Victoria, Citizens Advice in the UK published this article detailing how water companies can support people before, during and after the installation of smart meters:
<https://wearecitizensadvice.org.uk/everyone-should-be-offered-a-smart-meter-by-2020-b3bb7cd2d600>

¹⁸ Victorian Auditor-General's Office, Realising the Benefits of Smart Meters, 16 September 2015, available at: <https://www.audit.vic.gov.au/sites/default/files/20150916-Smart-Meters.pdf>. Also see: Victorian Government, Review of Electricity and Gas Retail Markets in Victoria, pp. 37-38, available at: <https://engage.vic.gov.au/review-electricity-and-gas-retail-markets-victoria>

We encourage strong customer engagement and collaboration in the digital meter space to ensure lessons learnt in the energy smart meter rollout are not repeated and that decisions are made in the best interests of customers.

Recommendation

The ESC set industry-wide principles to ensure the rollout of smart meters is in the best interest of consumers which include support mechanisms for vulnerable consumers, ensuring the outcomes are fair and benefits able to be enjoyed by all.

Paper bills

Consumer Action has seen paper billing and choice of payment issues emerge as a significant problem over time, particularly in the energy sector. Many energy retailers offer significant incentives for people that sign up for e-billing or agree to direct debits to ensure billing payments are made on time. Offering these sorts of “pay on time” discounts are in effect late payment fees in disguise, because the people who are likely to be late paying a bill are those who can least afford to pay the premium.

As set out in the federal Treasury’s Paper Billing Consultation Paper, a significant number of Australians are digitally excluded and are unable to receive electronic bills.¹⁹ These individuals are often our most vulnerable and disadvantaged citizens, including low-income households and the elderly. These groups are therefore disproportionately impacted by e-billing practices. A \$2 discount for someone that signs up for e-billing and direct debits could also be regarded as a \$2 penalty for those who receive a paper bill and pay by another means.

Based on equity grounds, we are wary of YVW’s proposal to offer a financial incentive to those that opt in to e-billing and pay via direct debit. We note that SEW’s engagement found that the possibility of increasing bills to fund so called ‘pay on time discounts’ was not supported.²⁰ The majority of SEW customers surveyed were not willing to change to e-bills and direct debit even if it meant a saving on their bill.²¹ They also questioned “how fair such incentives were for all, especially those vulnerable and unable to pay on time”.²² We share these concerns.

Recommendation

The ESC develop a Guideline for paper billing and e-billing charges.

Service Standards and Guaranteed Service Levels

We broadly support the proposal that service standards and guaranteed service levels should be based on historical benchmarks (i.e. a five year average level of service) but argue that business should be encouraged to improve service standards over time. The regulatory regime should encourage businesses to improve efficiencies over time. We see a range of ambitions when comparing the service standards in these four price submissions.

Guaranteed service levels (**GSLs**) deliver redress for customers than receive poor service and provide incentives for business to improve services. We note some adjustments in GSLs over the 2018-23 period. SEW has proposed to increase the payments for some GSLs so that they are not losing their relative value over time. We propose that all retailers should increase the amount of payments over time.

¹⁹ The Australian Government the Treasury, Consultation Regulation Impact Statement: Paper Billing, November 2017, available at: <https://consult.treasury.gov.au/small-business-and-consumer-division/fees-for-paper-bills/>

²⁰ South East Water 2018 Price Submission, pg 31.

²¹ Ibid.

²² Ibid

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Yours sincerely,

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