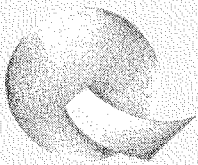


GENERAL MANAGER  
COUNCIL CHAMBERS

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WHEN REPLYING PLEASE QUOTE NUMBER



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A COUNCIL OF  
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Mr Paul Baxter  
Senior Commissioner  
Independent Competition and Regulatory Commission  
GPO Box 296  
Canberra ACT 2601

Dear Mr Baxter

**Water Pricing Water Abstraction Charge & Utilities Network Facilities Tax**

Thank you for taking the time to meet Council's representatives on these matters.

Concerning the WAC and the UNFT you indicated the Commission was happy to supply what information it could on these matters while recognizing that these taxes are set by the Government.

As you are aware the Council has written to both ACTEW and the ACT Government seeking further clarification of the basis of these levies and how they are apportioned to Queanbeyan.

Council contends that the WAC does not in actual fact reflect the scarcity value of water at 55 cents per kilolitre. The scarcity factor is considered to be no more than about 5 cents and any amount above this is merely a tax by the ACT Government and the excess amount generated by this tax is used as a general income stream by the ACT Government. The legality of the WAC has yet to be tested and it is considered that it will be found to be merely an illegal excise tax.

It is not considered appropriate to use a price variation in the WAC as a demand management tool as the water supplier, ACTEW, is not the recipient of this charge, no part of that so-called "scarcity price" goes towards supply augmentation and the phrase "demand management" is merely a euphemism calculated to try to disguise or justify the WAC by pretending it is not a tax.

In the meantime, it would be helpful to us in understanding these matters if the Commission could provide answers to the following questions in relation to its Final Report of October 2003 on the water abstraction charge (WAC).

**FAXED**  
21/09/07  
12.40pm

In relation to the WAC generally,

1. Is the WAC revenue and expenditure certified annually by the Auditor-General, so that expenditure claimed to be chargeable against water users has been verified as having been incurred solely for the purpose of water supply?
2. What are the annual financial year figures for WAC revenue and expenditure since its inception?
3. What is the break up of items of expenditure in each of those years?
4. What is the break up in each of those years between “water supply costs”, “scarcity value” and “environmental costs”?

Turning to the three components of the WAC identified in the report, we ask the following:-

*Water supply costs*

1. Are catchment costs apportioned between different end uses for water stored in the catchment dams? That is, are the costs apportioned *pro rata* between volumes released from catchments for human use and amounts released downstream for environmental purposes and for other users of water?
2. Is any charge levied on water releases made available to downstream users (whether as required environmental flow releases or by way of excess releases) to recoup their *pro rata* share of supposed catchment costs?
3. Are the listed catchment “management costs” incurred *solely and exclusively* for the benefit of human water users? What costs for catchment management are levied against campers or other recreational users of the catchment? What rational nexus is there between “parks and conservation” expenditure and urban water supply?
4. Given that animal faeces are a water quality health hazard rather than a benefit to human water users, why are water users charged for fauna management as in “wildlife research and monitoring”?
5. Water supplied to “Canberra urban parks and places” is not water supplied to urban water users. Why is this cost being charged to water users such as Queanbeyan?
6. Why should water users pay for salaries in Treasury and the Chief Minister’s Department and other Departments when these are organs of central administration not suppliers of water?
7. Given that the erection of the Cotter Dam has created a safe environment for endangered native fish species (protecting them from carp and other imported threats), why are water users not credited with conferring a net benefit (rather than imposing a cost) on the catchment area in terms of maintaining biodiversity?

8. In relation to catchment remediation, what insurance recoveries have been obtained in respect of pine forests in the Cotter catchment and have these been allowed for in computing ACT Government net expenditure on forest remediation?

*Flow costs: "scarcity value"*

In relation to so-called scarcity, we note at the outset the lack of water storage has been manipulated by statistics to give people the impression that water is far scarcer than reality dictates. Water storages are referred to as percentages of full whereas a more relevant reference would be to days' consumption available. As an example, the current water storage is 42.79% and at present consumption this gives just over 2 years supply whereas Yass water storage is 100% or 9 months supply, Sydney is 58.9% or 3 years consumption and Melbourne is 38.7% or 1.75 years consumption.

In particular, we ask -

1. Why is water considered scarce in the ACT when ACTEW's own *Future Water Options* project stated the ACT has enough water on average for a million people and that net usage by the ACT and Queanbeyan is only 4% of water resources while gross usage is only 1/3 of the amount available for human use even allowing for high environmental flow requirements?
2. We understand that the ACT's problem is not a lack of water as such but a lack of *storages* in available catchments, so why isn't the WAC earmarked for construction of new dams and storages to remove any scarcity of *stored* water?
3. If water has a "scarcity value" downstream, what charge is the ACT Government making for its supply of water to downstream users?
4. If the ACT Government makes no charge, how can it be said that water used by ACTEW's customers involves any opportunity cost whatsoever to the ACT Government in terms of its not getting a supposed "scarcity value"?
5. What revenue does the ACT Government receive directly and indirectly (by way of ACTEW dividends and taxes) per kl of water used by ACTEW's customers compared with what (if anything) it receives as a scarcity value from downstream users?
6. If the prices paid for water by ACTEW's customers (such as Queanbeyan) generate more revenue per kl for the ACT Government than could a sale of water to downstream users, isn't the opportunity cost of urban water use to the ACT a *negative* cost, that is, the ACT Government is better off for selling the water to ACTEW's customers (including Queanbeyan)? In other words, no charge for a supposed "opportunity cost" is warranted?

7. For each of the years the WAC has been in existence, how does the downstream price for water compare with the level of the WAC?
8. Why is the supposed scarcity price charged to ACTEW's water users not adjusted downwards to allow for transmission losses? If one is selling water upstream and downstream but one loses 2/3 of the water sent downstream, shouldn't the price upstream be 1/3 of the price downstream?
9. If a good costs \$ $x$  to produce but its value is \$ $y$ , why should the producer expect to be paid \$ $x$  plus \$ $y$ ? Is it reasonable that the ACT Government should expect to recover putative costs of catchment management plus the putative value of water supplied to water users, such as Queanbeyan?
10. Is the same "scarcity price" charged for urban use and agricultural use?
11. We observe that the alleged "scarcity of water" really has to be questioned in light of recent developments concerning re-use in the Ford Development. In this case the developer offered to construct and gift to ACTEW a sewer mining plant costing \$1.3 million in order that the recycled water could be used to supplement the stormwater harvesting and supply water to the open space areas. Whilst the proposal is under going a business case review by the ACT Government it has been rejected by ACTEW as they believe in a centralised sewage treatment system which contradicts other re-use schemes at Southwell Park and Fyshwick. Also the economics "did not stack up" as ACTEW would require a 6% return on the capital even though the sewer mining plant would be a gifted asset. Is water really scarce or is it just a monopolized commodity that ACTEW and its ACT Government masters manipulate to generate a monopoly rent?

*Flow costs: "environmental costs"*

1. Given that environmental requirements are already met through environmental flows from ACT dams and net urban water usage is only 4% of ACT water resources on average, why is a charge to restore water to the river required at all?
2. If water has been charged to upstream consumers at its cost downstream, hasn't the ACT Government already received from water users all the money it would need to buy back water for return to the river if it so chooses?
3. Is it customary in economics or accounting to charge a customer who has paid the going price for a commodity a second charge so that the seller can replace his stock *as well as* keep the proceeds of the sale?
4. What allowance is made for natural return to the rivers from evaporation/rainfall and seepage from domestic gardens of water users?

### *Utilities Network Facilities Tax (UNFT)*

In relation to the UNFT, we ask what pipes are used to service Queanbeyan with water and hence what UNFT is reasonably attributable to Queanbeyan bearing in mind the pipes used to service Queanbeyan may also carry water for ACT users?

We also raise the following question in relation to ACTEW.

### *ACTEW Efficient Costs*

It is stated that the Commission's role is to "regulate the revenues of ACTEW such that ACTEW does not over recover revenue relative to its efficient costs". We question whether the costs submitted to the Commission are really "efficient costs" or are they in actual fact mere notional and ACTEW-stated "costs" of which the efficiency has never been tested.

### *Using price for demand management*

The suggestion that during periods of continuous water restrictions price is used as a tool for short term demand management is considered to have another underlying reason for concern that has not been raised in the recent discussion paper on water pricing. At the moment in periods of stage 3 water restrictions and above ACTEW recovers its "lost revenue" by a pass through charge. If price is to be used as a demand management tool the pass through charge would have to be adjusted.

We observe that in normal non-monopolized markets, an increased scarcity price leads to more supply. But if ACTEW, being a monopolist, is always being "compensated" by ICRC for "lost revenue" due to water restrictions and non-supply, what incentive does it or the ACT Government have to supply water and build more storage? On the "compensation" theory, if restrictions cut water use by 99% , water prices would rise a hundred-fold or more to "compensate" ACTEW (and its ACT Government "owner") for lost revenue – *for supplying less and less*. How can such an outcome be consistent with national competition principles, let alone economic or social rationality?

### *Bulk Water Price*

It is interesting to note that "the Commission does not regulate the price of bulk water", Queanbeyan City Council has been told by ACTEW in the past that the price of bulk water is regulated by the Commission and has used the Commission's report to substantiate their argument in negotiating the bulk water supply agreement. Obviously the figure submitted by ACTEW to the Commission is a predetermined amount of revenue that ACTEW wishes to recoup from Queanbeyan. As such the validity of this figure has never been tested and as this figure is then used in the calculations for determining the water prices in the ACT the question that needs to be asked is "Are the ACT residents paying the correct amount for their water or is there cross subsidisation between the ACT and Queanbeyan?"

Queanbeyan City Council considers it reasonable that it pays for genuine and real costs associated with the supply of water to Queanbeyan such as the proportion of bulk supply main costs, treatment costs, pumping costs, and actual catchment costs genuinely incurred solely for the purpose of supplying water to users. It is considered unreasonable for Queanbeyan residents to pay for notional "costs" never really incurred or for costs associated with the ACT supply or with ACT Government such as reticulation, storage, billing, administration, advertising, sponsorship and Chief Minister's or Treasury Departments.

We would also be most grateful for what answers ICRC can supply to shed light on the above questions as we have had and continue to have some difficulty in understanding the logical basis for the WAC and for apportioning UNFT in terms of normal understandings as to what is a genuine "cost" or "value" of something for which Council is being required to pay.

Queanbeyan City Council would therefore welcome the Commission revisiting our current arrangement with ACTEW to ensure that there is no cross subsidisation between the ACT and Queanbeyan or disguised taxation of Queanbeyan residents by the ACT Government.

As we have repeatedly made clear to ACTEW and the ACT Government, Council will pay reasonable charges for goods supplied but it cannot be expected to pay charges which have no rational basis.

Yours faithfully



**GARY CHAPMAN**  
**GENERAL MANAGER**

21 September 2007