

Independent Competition and Regulatory Commission

By email to icrc@icrc.act.gov.au

Draft Report: Tariff Review

Regulated water and sewerage services

We refer to your Media Release dated 6 September 2016 seeking Submissions on the Draft Report by the Independent Competition and Regulatory Commission (the Commission). Our Submission follows.

ACT Civil and Administrative Tribunal

The ACT Civil and Administrative Tribunal (ACAT) was established by the *ACT Civil and Administrative Tribunal Act 2008* and commenced operation on 2 February 2009. ACAT brought together a large number of ACT tribunals, including the former Energy and Water Consumer Council.

Under Part 12 of the *Utilities Act 2000*, ACAT Energy and Water is responsible for determining hardship applications and complaints made by consumers and customers of ACT energy and water utilities. In relation to water and sewerage services, these may include complaints about:

1. Contravention of an industry code dealing with utility service standards by a utility.
2. Failure (or potential failure) of a utility to provide a utility service to a consumer or the withdrawal (or potential withdrawal) of a utility service from a consumer, where such failure or withdrawal causes (or is likely to cause) substantial hardship to the consumer.
3. Contraventions by a utility in relation to the protection of personal information.
4. Contraventions by a utility of an obligation in relation to network operations under the *Utilities Act* or the *Utilities (Technical Regulation) Act 2014*.
5. Acts or omissions of an authorised person for a utility in relation to network operations.
6. The amount of a capital contribution charge imposed under s 101 of the *Utilities Act* by a utility.

ACAT also has jurisdiction to consider and resolve customer complaints about credit reference reports made by water utilities.

Icon Water is the only water utility covered by the ACAT Energy and Water jurisdiction.

ACAT considers hardship applications involving Icon Water customers and consumers and also investigates and determine complaints made by Icon Water customers. In dealing with water and sewerage complaints, ACAT relies principally on the *Consumer Protection Code* made by the Commission. ACAT Energy and Water does not have a complaint role in relation to residential tenants in the ACT – their obligations in relation to water charges arise through residential tenancy law.

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ICRC Objectives

The ICRC Act sets out three objectives:

- (a) to promote effective competition in the interests of consumers;
- (b) to facilitate an appropriate balance between efficiency and environmental and social considerations;
- (c) to ensure non-discriminatory access to monopoly and near -monopoly infrastructure.

Both objective (b) and objective (c) specifically raise social and environmental considerations and this focus is emphasised by other provisions in s 20(2) to which the Commission is to have regard, including:

- (f) the principles of ecologically sustainable development mentioned in subsection (5);
and
- (g) the social impacts of the decision; ...

ACAT observes that these statutory provisions require the Commission to place equal importance on social and environmental outcomes and economic outcomes. In particular, ACAT urges the Commission to consider and prioritise the impact of its decisions on the most vulnerable members of the ACT community, including those with significant medical problems, substantial disability and/or in substantial financial hardship.

ACAT also observes that the overarching objective in new s 19L is similar to those in the National Energy Law and that, ultimately, the "long-term interests of consumers" are the paramount consideration.

Summary of ACAT Recommendations

Priority on Water Conservation

Considering wider environmental concerns, the objective should be the maintenance of permanent conservations measures and, if at all possible, avoidance of additional water restrictions which cause economic distortions in the community. Accordingly, the pricing structure for water should encourage conservation and promote the development of bypass & water reuse systems based on a higher Tier 2 price. This strategy is more likely to develop a system that avoids excessive water restrictions and the resultant revenue problems during periods of drought.

Tiered Pricing

A two-tiered price for water consumption should be maintained with the lower cost first tier price maintained at around the current price level or lower. This lower tier provides access to an essential service at a reasonable price. The second tier should be priced as required to meet the Commission's price path. The second tier price path should be uniform for all usage and not reduced for users of more substantial volume.

In addition, Tier 1 pricing should be based on an annual allowance of 250kL, not on a quarterly allowance of 50kL, which is the practical effect of the current Icon Water billing system.

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Supply Fees

ACAT does not support significant increases in the water supply charge. Icon Water receives significant cash flow support from the sewerage supply fee which is paid up front and is significantly higher than the current water supply fee. Also, a higher supply fee may have a regressive social outcome, in particular for frugal, small users.

Yours sincerely,



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ACT Civil & Administrative Tribunal

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