

Mr. Paul Kelly
Executive Director
Economic Regulation Authority
PO Box 8469
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17 October 2017

Dear Mr. Kelly

WACOSS Submission to the 2016/17 Review of the Water Services Code of Conduct (Customer Service Standards)

The Western Australian Council of Social Service welcomes the opportunity to be a member of the Water Code Consultative Committee and to provide a submission regarding the Economic Regulation Authority's Draft Decision Paper released as part of the 2016/17 review of the *Water Services Code of Conduct (Customer Service Standards)*.

As the peak body for community services we advocate on behalf of West Australian consumers directly affected by the important changes proposed in the review's draft decision.

In preparing this submission, WACOSS undertook consultations across WA to gather input on the draft decision and its proposed amendments, to ensure customer's voices are represented. WACOSS looks forward to participating in the remainder of the review process.

Please contact Dr Jennie Gray or Jack Thornton on (08) 9420 7222 should you have any queries regarding this submission.

Yours sincerely

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WACOSS Submission

Water Services Code of Conduct (Customer Service Standards)

The Water Services Code of Conduct (the Code) establishes a customer protection framework that outlines the minimum level of service standards that licensees must provide to customers. Since November 2013 the Code has been operating satisfactorily. It is important, however, that there are regular opportunities to improve and adjust it to varying or emerging customer needs.

At present, the cost of utilities is rising and customers are increasingly experiencing financial hardship. WACOSS commends the considered revisions to the Code, ensuring that customers are better protected and provided with a safety net when challenged with hardship. These improved safeguards for customers will help in guaranteeing the citizens of our State a good standard of essential basic services at an affordable cost with financial flexibility available when necessary.

Within this review, WACOSS particularly welcomes and supports:

Payment Plans & Water Charge Rebates

Many customers receiving some form of concession are already facing financial hardship. When they accrue outstanding bills, a short-term bill extension is not sufficient to resolve that hardship for the longer term. Customers who are experiencing payment difficulties can lose their water rebate support, requiring them to repay considerably more despite not being able to afford it, making them doubly disadvantaged.

WACOSS strongly supports the amendments to clauses 25(1)(2)(3) and 27(1)(2)(3) ensuring that the licensee must inform the customer of their rights and responsibilities when in hardship, such as the right to enter a payment plan. If a customer requires a payment plan or other arrangement, the licensee must meaningfully consider the customer's individual circumstances. This means the licensee must take into account the customer's capacity to make a payment and their water usage behaviour when setting out the plan to ensure customers are provided with a fair opportunity to pay their arrears and end their hardship.

Under section 33(6) of the *Rates and Charges (Rebates and Deferments) Act 1992*, the Water Corporation's offering of a payment plan or extension for assistance is defined as an 'arrangement for the payment of arrears'. Therefore relevant customers who enter either form of assistance are still entitled to their fixed or usage water charge rebate. WACOSS considers it critical in ensuring water remains affordable and equitable for everyone that during financial hardship the customer must not be penalised while complying with their agreed plan, and remain entitled to a rebate for both fixed and water usage charges.

Interest & Penalty Fees

Customers who experience hardship should not be penalised further for essential services, especially when their debt or charge issue with the licensee remains unresolved. Collecting debts and charging interest or late payment fees for overdue bills simply exacerbates the customer's hardship experience and creates more difficulty in repaying the initial debt. WACOSS recommends implementing clause 28A so that the licensees must offer customer assistance to minimise hardship and ensure debts will be settled.

Landlord-Tenant Relationship with Licensee

Through customer consultation and research, WACOSS found issues where customers who are tenants or occupiers of a rental property did not have a direct contact to the water service retailer and were instead required to go through their landlord.

Currently, the definition of a customer in the *Water Services Act 2012* (the Act) is different to the equivalent definition in the Code, as it excludes tenants and occupiers. The Code stipulates that tenants and occupiers do not have a direct contractual relationship with a licensee and are therefore not covered by the definition of a customer under the Act.

As the Code is made under section 27 of the Act 'to deal with the conduct of licensees with respect to customers and potential customers', it can only deal with "customers" as they are defined in the Act. The definition within the Act refers to persons to whom water services are provided, or who are entitled to the provision of water services, but does not specifically refer to occupiers or tenants.

With the Code not applicable to tenants, those who rent will not be entitled to concessions and other provisions if they are in financial hardship. In relation to landlords, the State tenancy agreement (*Residential Tenancies Regulations 1989 – Schedule 4 – Forms – 1AA*) allows a landlord and tenant to agree that the tenant will pay some or all of the water consumption charges, however the Act (Section 126) specifies the landlord ultimately remains liable for any water consumption charges and debt.

In electricity and gas markets, tenants do have a direct relationship with their service provider. As a result, they are entitled to all the protections available under the electricity and gas customer service codes. There is no reason why tenants in the water market should not have the equivalent rights. WACOSS believes that the Code must apply to all tenants and supports the ERA's amendment to clause 4(1) in removing the Code's broader definition of a customer to make progress on this matter.

The Act includes a provision that it be reviewed as soon as practicable after every fifth anniversary of its commencement. As the Act came into effect on 18 November 2013, the first review for the Department of Water is due after November 2018. WACOSS strongly encourages all stakeholders to make a submission to this review recommending a legislative change to the definition of a customer within the Act to include tenants.

Minimum Service Standards

An integral part of customer protection is ensuring the minimum service standards of the Code are applicable to all residential customers in Western Australia. WACOSS understands there needs to be flexibility for non-standard service provisions between business customers and licensees to ensure practicality and efficiency in the commercial contract and overall market.

WACOSS supports the recommendation to amend clause 5(1), which will only allow non-residential customers to contract out of the Code and guarantees that the provision of services to residential customers is directed by the Code's customer safeguard mechanism at all times.

Restriction Reminders

WACOSS agrees with the introduction of clause 31A to require licensees to provide customers with appropriate (minimum 7 days) notice and information of their rights and responsibilities before reductions and restrictions to supply occur, as this will safeguard against the negative impact on public health.

Information on Customer Bills

A significant issue for residential customers are the details included on issued water bills. WACOSS strongly supports the multiple amendments made to clause 12 of the Code, enabling customers to appropriately understand their bill, available options and water usage behaviour.

Debts & Recovery

WACOSS endorses the amendments to clauses 28(1) and 29(1)(d)(e) to protect the confidentiality of a tenant who enters a payment plan with the licensee and ensures that the landlord not be made aware of their personal financial circumstances; and that licensees no longer be able to collect an outstanding debt while a complaint from the customer about the debt or charges remains unresolved.

Service Standard Payments

The proposed introduction of service standard payments has received mixed responses from stakeholders. WACOSS believes the policy experiences from Victoria and the ACT should be reflected in our State, where customers can be fairly compensated for the licensee breaching the service standards.

In a long period of increasing utility costs, WACOSS argues that it is equitable if customers are paying increasingly more for a service then if that service fails to meet the standards, the offset for customers should be compensation. An introduction of these payments would ultimately not cause regulatory burden and would incentivise licensees to consistently achieve satisfactory levels of performance, whilst resolving customer complaints and reducing referrals to the Ombudsman.

Customer Protection Register

For customers who have special requirements (for example, use of a dialysis machine, life-support equipment etc.), water is an even more important service that must not incur a loss of supply due because of the consequent and grave risk to health. Listing these customers on a register ensures the licensee guarantees to appropriately notify them of any service interruptions and cannot restrict their supply.

WACOSS welcomes the introduction of clauses 38-41 (Part 8 of the Code) to ensure customers with these particular needs are protected, especially if faced with hardship, by the preserved supply register.

Conclusion

WACOSS trusts that the above comments and recommendations will be fully considered in finalising the regulatory decisions for the Code.

As the cost of living for everyday households is rising and the energy market is transforming, there needs to be increased consumer advocacy to ensure those who are most vulnerable are safeguarded of their essential services.

This review will not resolve all issues and inefficiencies in the water market. Progress still needs to be made in future reviews to amalgamate a customer protection and utility hardship framework into the regulatory framework. This will ensure an inclusive and equitable market that will be effective in a systematic and sustainable way.

WACOSS considers the implementation of the Code amendments to be critical in guaranteeing the improved outcomes for both the licensees and customers. Ensuring the appropriate information is available online, frontline staff are well-trained regarding the changes and that customers are made aware of their new rights is vital in achieving optimal results.

WACOSS is overall supportive of the amendments proposed in the review and satisfied with the headway made in advancing customer protection for water services. WACOSS again appreciates the opportunity to be a part of the review process and hopes more holistic reviews are undertaken in the future to create the most efficient and equitable utilities market possible.