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Inquiry on Competition in the Water and Wastewater Services Sector
Economic Regulation Authority
PO Box 8469
Perth Business Centre
PERTH WA 6849

Email: watercompetition@era.wa.gov.au

Dear Sir

Australian Water Association submission
Inquiry on Competition in the Water and Wastewater Services Sector in WA

The Australian Water Association is pleased to provide this submission in response to your Draft Report in the Inquiry into Competition in the Water and Wastewater Services Sector in Western Australia.

AWA is an independent, self-funded, not-for-profit organisation with an overarching mission to promote the sustainable management of water. The Association has over 4000 members across Australia, and over 400 members in WA, ranging across the public and private sectors, suppliers and consultants, in the urban and rural water sectors.

Since the major reforms in the WA water sector in 1996, a dynamic period has followed in the regulation of the water services sector, with changes including the dismantling of the Water and Rivers Commission, and the creation of the Department of Water and the Economic Regulation Authority respectively. In addition there have been recent government water policy initiatives, leading to legislative changes, which are yet to be implemented. It is fair to say that many of these changes are in their infancy and have not yet matured or stabilized, and therefore are yet to realize their potential benefits. The idea of introducing further new institutions, while the existing institutions are still establishing themselves, and while a major review of legislation is under way, is a major concern to the AWA.

Despite the changes of the past decade, there has been relative stability in service planning and provision by service providers including the Water Corporation. Moreover, the urban water services sector in Western Australia is highly regarded within the water industry in Australia and around the world. The existing water service arrangements and institutions are considered effective in maintaining water and wastewater services to a high standard. For example, the Water Corporation's 'Security Through Diversity' strategy has received widespread recognition in a critical period as the industry seeks to adapt to climate change.

The ERA Draft Report Inquiry on Competition in the Water and Wastewater Services Sector dated December 2007 recommends several major changes to the structure and regulation of water services in WA. These recommendations, if implemented, will represent the most significant changes in the water sector in WA since the reforms which led to the governance changes in water resource management and the corporatisation of the Water Corporation in 1996.

The AWA regards many of the recommendations as generally well founded, although others are cause for concern. The attached submission notes our principal issues without seeking to comment on each and every aspect of the Draft Report. The following areas warrant highlighting:

- AWA considers that the case for the establishment of a new independent entity for the procurement of water sources has not been clearly made. In AWA's view the objectives of achieving least cost solutions and greater transparency in decision-making can be achieved through the existing statutory provisions, rather than a fundamental change as proposed.
- AWA considers that, as in other jurisdictions, long-term strategic urban water services planning should be made a widely inclusive, integrated, transparent process. This may necessitate some statutory amendments. The Water Corporation is well placed to drive this planning process.
- A new strategic water planning framework has recently been adopted for WA. AWA considers that this strategic water planning framework requires strengthening and full implementation across both water resources and water services planning.

The attached submission provides additional detail.

It is trite to observe that Australia is facing considerable challenges in meeting its water resource needs. This is not a reflection of fundamental failings in our existing institutions. Rather, it results from the twin pressures of increasing water demands through population and economic growth and reduced yields as a consequence of climate change. AWA submits that an appropriate response is a balanced approach which seizes opportunities for improved performance without imperiling existing planning and service delivery capabilities. Neither Western Australia nor the nation can afford to lose its existing expertise.

The AWA acknowledges and appreciates the time taken by ERA personnel to meet and brief AWA members in WA, and looks forward to the next phase of your review. We would welcome the opportunity to facilitate any further associated consultative processes that may be established to further progress the resolution of the Inquiry.

I also offer AWA's services to share information on the findings of the inquiry through its various newsletters, journals and conferences. If I or AWA can be of any further assistance, please feel free to contact me.

Yours sincerely

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Australian Water Association

Submission to the Economic Regulation Authority, Western Australia

Inquiry on Competition in the Water and Wastewater Services Sector Draft Report, 3 December 2007

1.0. Executive Summary.

1. The Draft Report does not demonstrate that the proposed Independent Procurement Entity will result in improved outcomes. The key objective is greater transparency in how the evaluation of alternative water source options leads to least cost outcomes. AWA considers that the current statutory and policy provisions and institutional structures could be enhanced to bring about this greater transparency in water source planning, regulation and approvals, and encourage alternative supply and demand-side options in innovative ways.
2. AWA considers that there may be scope to reform the WA urban water services planning process to make it more inclusive, transparent, integrated and synergistic. All sourcing ideas (including from the private sector) would be considered by a more inclusive process. The models being adopted by the eastern States offer useful guidance on this, although in WA the Water Corporation remains best placed to drive this process.
3. AWA agrees that there must be a transparent policy and process for the making of CSO payments for *all* water service providers. AWA endorses the call for the development and clear articulation of policy in this area.
4. The ERA's other recommendations in the areas of water trading, third-party access, the disaggregation of service roles, retail contestability and water pricing are generally supported. It is understood that the reforms currently being introduced by the Department of Water will address most of the issues with water trading.
5. The successful implementation of several of the recommended reforms will require a robust, clear and independent approach to regulation and full cost recovery in pricing.

2.0. Introduction

AWA's primary interests in urban water services are that they provide:

- long-term water supply security;
- water quality that complies with the Australian Drinking Water Quality Guidelines;
- services that are ecologically sustainable; and
- pricing that brings about a true valuation of water.

In many respects the detail of the organisational structures to deliver on these objectives is not as important as the planning and integrating processes needed to achieve them.

3.0 The need for the IPE

It appears a large element of the premise on which this Inquiry has been established is to address the apparent unresponsiveness, or limited transparency with which the Water Corporation deals with ideas and innovative initiatives emerging from the water industry and the community generally. AWA supports transparency in the source planning and development process, and believes there is scope in the existing institutional arrangements to achieve this. AWA members generally consider that there are more practical options than the idea of establishing a new independent entity. The IPE was seen as another level of potentially superfluous bureaucracy and unnecessary regulation.

Under the regulatory and corporatisation reforms of 1995/6, new regulators and the Water Corporation were established to operate as interactive and inclusive statutory entities in an open and transparent manner. If this has not been achieved, or is not entirely the current perception, then the existing arrangements could be amended and 'refreshed', and regulators effectively resourced, to address these concerns and to make the original objectives work. This model was recently enhanced through the establishment of the Department of Water, whose actual and potential role appears to be understated in the Draft Report.

A strong amending mechanism for enhancing the institutional arrangements is already available in the form of the current of legislation under which the water services sector operates. This legislation is currently under review, and could be further amended to bring about some of the necessary changes. This process will enable the Government's water reform program, but could be further enhanced to increase transparency. For instance, in cases where the Water Corporation has been asked to consider new ideas it could be required under these legislative amendments to make widely public the analyses on which its conclusions were based.

Other concerns raised about an IPE mechanism involved:

- the possibility that a focus on economic efficiency may come at the expense of environmental protection and related sustainability issues (which are not often easily quantifiable)
- the methodology an IPE would adopt in establishing a design basis, and trigger points for new sources;
- the timing delays of the introduction of new source options which in the experience of many AWA members can be significant. Some of these delays are a function of the complexity of regulation, while some reflect the need for inclusive and more holistic decision making. It was considered unlikely that private sector source proponents would go through all the expense of gaining all the necessary approvals pending a possible call to implementation at short notice;
- the water security factors associated with each new small source option need clarification. It is not clear 'who would own' the risk of the failure of any of these sources;
- the ability to resource an IPE in an economy where highly skilled water industry and regulatory resources are getting scarcer.

4.0. Long-term planning for water security

The Draft Report proposes that "the Government will provide a set of system security requirements" against which the proposed IPE would operate. AWA is aware that the reforms being introduced elsewhere in Australia have placed a particular emphasis on the development of a comprehensive, transparent and inclusive strategic planning process for metropolitan water supply. It is this process that is delivering the 'water supply system security requirements' for each of the major cities - based on an acceptable 'level of service' established with the community.

In other jurisdictions this water security planning process is not driven by the dominant major water services provider but now is typically driven by a State Agency or Commission, although each State has its own variations. In WA the Water Corporation has the expertise to drive this process.

It is noted that the WA Department of Water is undertaking the statutory water resources planning process for rivers and aquifers. This water resources planning process for the resources of the Perth region will need to be integrated with the urban water services planning process. (The Draft Report does not make clear what additional role is envisaged for the Department of Water).

One of the key reasons for widening participation in this strategic water services planning process (as distinguished from water resource planning) is that water service options on the demand management side are now as important as on the supply side. This brings in agencies with various statutory responsibilities, for instance, in planning and development approval and environmental management that are now relevant to the debate. Provisions in regard to water use efficiencies in new and renovated dwellings and water sensitive urban designs in new urban developments are two such areas. The involvement of community groups is another positive aspect.

5.0. Rural and regional water supply.

Central to the discussion on this issue was the making of payments by Government for community service obligations for 'uneconomic' water supply schemes. In this regard the AWA considers that:

- the Government needs to clearly confirm that CSO payments to private sector bodies will be available where they take over the provision of these services;
- the Draft Report makes reference to such an approach in Queensland, but the translation of this to WA needs more analysis and discussion;
- it is appropriate that the Treasury develop policy and guidelines on CSO payments and establish a process by which individual proposals to supply remote communities are evaluated;
- this should include provisions for: periodic review of the payments; incentives for efficiency gains and innovations; and the objective of trying to scale down CSO payments and making schemes financially viable over time.

6.0 Supporting structures: Regulation and Pricing

The successful implementation of several of the recommended reforms will require a robust, clear and independent approach to regulation and full cost recovery in pricing. As a general observation, as service provision moves from the public to the private sector, public scrutiny and accountability decline. The role taken by a portfolio minister in relation to a government agency – even an independent statutory corporation such as Water Corporation – must be taken up by a strong and independent regulator. Moreover, the private sector will require the certainty of the regulatory framework being established and clear prior to it committing capital or resources to the industry.

Additionally, the need for fully cost reflective pricing becomes more critical as planners seek to evaluate alternative supply options – whether for water resources, capital projects or operational activities.