

13 August 2007

Water Industry Competition
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Thank you for the opportunity to comment on the *Water Industry Competition Act 2006* Regulations Consultation Paper. I apologise for the lateness of this submission.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

EWON appreciates the thoroughness of the analysis undertaken in the Consultation Paper, especially concerning the regulation of obligations new market entrants may have to their customers. We have focussed on the areas of the Consultation Paper dealing with 'Customer protection' and 'Retailer of Last Resort (RoLR)'.

Customer protection

Should the minimum consumer protections provided through the licensing regime vary by nature of size of customer (e.g. procedures for the handling of complaints received from households) and should these minimum protections be prescribed in the Regulations or set out in the Codes of Conduct, which could be developed by service providers?

As a general principle, EWON considers that where a new market entrant intends engaging in any business activity that directly affects small customers (eg retailing of recycled or desalinated water to residential customers; removal of sewage from residential premises; connection of water supply infrastructure to premises occupied by residential customers), the operator should be subject to

minimum licence conditions (eg limitations on disconnection and restriction; compliance with social programs; the development of customer hardship programs; the requirement to join the approved external dispute resolution scheme).

Where a new market entrant intends only to contract with large business customers (such as the retail supply of recycled or desalinated water by a new market entrant to large industrial customers), EWON considers that the licence conditions imposed on the new entrant need not include all of the typical 'small' customer type consumer protection clauses such as those indicated above.

EWON suggests that minimum customer protections such as those noted above, should be prescribed in the Regulations. Additional customer protections (eg for the marketing of retail contracts for the supply of water or sewerage) may be more appropriately contained in a Code of Conduct.

Retailer of Last Resort (RoLR)

What (if any) further matters need to be addressed in Retailer of Last Resort arrangements under the Regulations or are these matters better considered on a case-by-case basis?

We suggest that RoLR arrangements may need to address the resolution of customer disputes over a final bill issued to them by a retailer who has either chosen to withdraw from the market or has experienced business failure. EWON notes that in the case of electricity or gas retailer failure, the retailer issues final bills to customers using an estimated final meter reading as at the date of market withdrawal/business failure. One reason for this is because it is impractical for retailers to arrange special meter readings to coincide with market withdrawal or business failure.

Some customers who receive estimated final bills may dispute the method or amount of estimated usage. EWON received a small number of such complaints from customers following the recent electricity RoLR event in New South Wales involving customers of the former retailer Energy One.

EWON suggests that a beneficial inclusion in the Regulations may be a specific reference to estimations of water usage for account calculation in the event of a RoLR event, as well as what arrangements are to occur in the event of customers disputing an estimated account (eg customer rights to query the billing or to provide a self reading; the time frame that may apply to any obligation on the

withdrawn/failed retailer to attempt to resolve such disputes internally prior to a customer approaching an external dispute resolution service following the issue of a final bill).

Customer transfer arrangements

Are existing safeguards in relation to the transfer of customer information to licence holders adequate? Are any additional safeguards required to protect the interests of customers, licence holders and incumbents?

The issues discussed in this aspect of the Consultation Paper appear to cover EWON's concerns about the risks in the transfer of customer and metering information between retailers, and between network operators and retailers. EWON supports the application of transfer requirements to water competition similar to those that currently exist in the competitive energy retail market nationally.

One additional area of concern from EWON's perspective is the practice of site transfer where the consent of an occupant of a premise is obtained, but that occupant is not the existing contract/account holder (this is referred to below as "non account holder transfer").

Since the introduction of full retail contestability in energy in NSW in 2002, EWON has received many complaints where non account holder transfer has occurred. In these cases, the existing account holder has complained that their contract with their retailer of choice has been terminated without their knowledge or consent because another occupant of their household has entered a contract with another retailer. In most cases, the pre-existing contract holder is subsequently issued with a final bill by their retailer of choice (this is generally the standard supplier for the area), and if their contract was a market contract, they are also charged an Early Termination Fee (\$75 or more, depending on the type of contract). While retailers consider this a legitimate practice, EWON and energy and water ombudsman schemes in other States consider that the practice should be reviewed, as it does not seem reasonable that a customer can have their current account/contract cancelled without their knowledge or permission.

EWON suggests that consideration be given to clearly stating in the Regulations what conditions must be met before a retailer (or their agent) can transfer a customer, eg the 'new' retailer or their agent obtaining the specific informed consent of the pre-existing account holder before proceeding with a transfer; the form of this consent; and what records should be kept in relation to the consent.



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If you would like to discuss this submission, please contact me or Chris Dodds,
Policy Officer on 8218 5250.

Yours sincerely

A handwritten signature in black ink that reads "Clare Petre".

Clare Petre
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