



Challenges and opportunities:

PIAC submission to IPART's issues paper: *Review of prices for Essential Energy's water, sewerage and other services in Broken Hill.*

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The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights; and
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from Trade and Investment, Regional Infrastructure and Services NSW for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Energy + Water Consumers' Advocacy Program

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- St Vincent de Paul NSW;
- Combined Pensioners and Superannuants Association of NSW;
- Park and Village Service;
- Ethnic Communities Council NSW;
- Rural and remote consumers;
- Retirement Villages Residents Association;
- Physical Disability Council NSW; and
- Affiliated Residential Park Residents Association.

1. Introduction

This submission responds to IPART's Issues Paper, *Review of prices for Essential Energy's water, sewerage and other services in Broken Hill* (the Issues Paper). Essential Energy's water business (Essential Water hereafter), supplies water and sewerage services to residents and businesses in the greater Broken Hill area of far western NSW. The NSW Independent Pricing and Regulatory Tribunal (IPART) is currently in the process of determining prices for Essential Water services to come into effect from 1 July 2014. The current determination follows on from prices set in the previous determination, which was intended to be in effect from 1 July 2010 to 30 June 2013. The prices for 2012-13 were then continued in 2013-14, extending the determination by a year.

PIAC submits that the price path proposed by Essential Water—increases of 5.9% per year over a four-year determination—is not excessive and is likely to be manageable for most consumers. However, it is important that IPART and other stakeholders have sufficient information to scrutinise Essential Water's proposals and ensure that all proposed expenditure is necessary. In addition, some low-income and vulnerable consumers will always have difficulty affording essential services such as water, and there is, therefore, a need for the NSW Government to increase the effectiveness of its assistance measures for consumers in this category.

PIAC also acknowledges that some unique challenges, related to water and geography, exist in the Broken Hill region. PIAC submits that in light of these circumstances, the NSW Government should re-instate its subsidy to Essential Water.

2. Affordability

2.1 Trends in affordability

Essential Water's pricing proposal forecasts a 5.9% price increase per year, over four years.¹ These increases will take the annual bill for a resident with sewerage, using 200kL of water per year, from \$1,084 in 2014 to \$1,361 in 2018 (in 2014 dollars). Essential Water states that its tariff structures have 'been developed in line with *Best Practice Management for Water and Sewerage Guidelines* developed by the NSW Government.' In terms of shape, tariffs will 'remain fundamentally unchanged from the current tariffs in place'.² This means that Essential Water 'plans to apply x factor increases of 5.9% to most tariffs', with some ancillary services increasing only by CPI.³

Based on the information provided by Essential Water, the price rises do not appear to PIAC to be excessive. PIAC believes that most consumers should be able to absorb the increases of around \$60 to \$80 per year, depending on consumption levels. Nonetheless, PIAC notes that absorbing any price rise will be much more difficult for low-income and vulnerable consumers, who face significant cost of living pressures on multiple fronts. This consumer cohort is discussed in greater detail below.

¹ Essential Energy, *Submission to IPART's Review of Prices for Water and Sewerage Services to Broken Hill and*

² *Ibid*, 56.

³ *Ibid*.

2.2 True cost of supply

PIAC submits that it is important that any price increase faced by consumers is only as high as is absolutely necessary. To this end, PIAC supports IPART's approach of seeking 'to set prices that are cost-reflective'.⁴ While PIAC supports this outcome, PIAC submits that if prices are too high, there is a risk that residents may avoid using the water they need in order to afford their bills. The unique water needs of consumers in the Broken Hill region are discussed further below.

However, PIAC submits that the level of detail provided by Essential Water to the public makes it difficult for stakeholders, such as PIAC, to scrutinise its proposals regarding operating and capital expenditure (opex and capex, respectively). While PIAC understands that Essential Water provides a greater level of detail to IPART, PIAC has previously had success in arguing that water utilities were requesting excessive operating allowances.

For example, in 2012, Hunter Water was awarded a reduced allowance for electricity, in line with PIAC's argument that more of its energy-intensive activities could be undertaken at off-peak times, reducing pressure on prices.⁵ PIAC was able to make this recommendation based on the level of detail provided by Hunter Water in its pricing proposal. PIAC, therefore, recommends that in order to allow greater public scrutiny of its proposals, and in the interests of transparency generally, Essential Water should provide greater detail about its proposed capex and opex for this determination. In order to allow stakeholders time to scrutinise the information and give input into the determination process, such information should be provided before the public forum for this inquiry.

Recommendation 1

PIAC recommends that Essential Water provide greater detail to the public about its proposed capex and opex as part of its pricing proposal to IPART. This information should be made available to stakeholders before the public forum for this price determination process.

2.2.3 Electricity use

In line with PIAC's experience with Hunter Water, PIAC also recommends that Essential Water examine all opportunities to reduce its electricity usage through shifting major consumption to off-peak times. Given Essential Water cites electricity as a principal component of direct operating costs,⁶ such a move will potentially reduce opex requirements and thereby lessen upward pressure on prices.

Recommendation 2

PIAC recommends that Essential Water examine all options to shift electricity consumption away from peak times, in order to reduce its opex requirement.

2.3 The NSW Government subsidy to Essential Water

Essential Water faces some particular challenges in supplying water to the Broken Hill region. The area is the most arid in NSW, with average annual rainfall of 225mm.⁷ In addition, the soil of

⁴ IPART, *Review of prices for Essential Energy's water, sewerage and other services in Broken Hill – Issues paper*, 2013, 2.

⁵ Derum, O, *Making every drop count: PIAC submission to IPART's price determination for Hunter Water*, 2012, 4.

⁶ Essential Energy, above n 1, 20

⁷ Essential Water, *pricing proposal – customer impact summary*, 2013, 1.

the Broken Hill area is naturally high in lead.⁸ This means that hard surfaces such as driveways and footpaths must be hosed down, rather than swept, and grass must be cultivated to reduce dust.⁹ In addition, the extreme temperatures mean many households use evaporative air conditioners.

The NSW Government has historically provided a subsidy to Essential Water. IPART calculated that the subsidy represented around 10% of Essential Water's annual revenue requirement over the last determination period. The agreement with the NSW Government to provide the subsidy expired on 30 June 2013. When the 2012-13 prices were left in place for 2013-14, Essential Energy absorbed the reduction in revenue due to the removal of the subsidy without increasing water and sewerage prices.

Following a Community Cabinet meeting in Broken Hill in September 2013, Deputy Premier, Andrew Stoner, stated that while he was not able to guarantee that the subsidy would be re-instated, the government would 'try and work up some solutions to a looming problem'.¹⁰ PIAC submits that Essential Water faces some unusual challenges in supplying water to the Broken Hill area, which represent a justifiable basis for the provision of that subsidy. These include environmental factors and the associated critical need for water and a customer base that is both aging and shrinking. PIAC, therefore, recommends that the NSW Government re-instate the subsidy to Essential Water. The consequent reduction in bills would reflect that consumers in the Broken Hill area have less discretion in their water use than consumers in other areas.

PIAC understands from IPART that a decision about the subsidy is likely to occur between the Draft and Final reports of this review, allowing for a potential adjustment before prices are finalised.

Recommendation 3

PIAC recommends that the NSW Government re-introduce its subsidy to Essential Water for the duration of the next price determination period.

3. Customer assistance measures

3.1 Pensioner rebate

The NSW Government provides a rebate on water and sewerage bills to eligible pensioners who are customers of Essential Water. The rebate is available to owner-occupiers only, and is \$87.50 per year for water and \$87.50 per year for sewerage.¹¹ The rebate is provided by the NSW Government.¹² The Pensioner rebate has not increased since at least the start of the 2010-13 water price determination and information about its historical value and specific funding source are not readily accessible.

⁸ Ibid.

⁹ Ibid

¹⁰ Boisvert, E, 'Local Issues Dominate Community Cabinet meeting', *ABC News Online*, 3 September 2013, available www.abc.net.au/news/2013-09-03/local-issues-dominate-broken-hill-community-cabinet/4930968 as at 27 September 2013.

¹¹ Essential Energy, above n 1, 60.

¹² Ibid, 62.

In its submission, Essential Water states that ‘there is a strong case for increasing and/or altering the way that the rebate is calculated...to ensure that [it] retains its value as prices increase’.¹³ PIAC supports this call, and further argues that the NSW Government should increase the rebate to reflect current prices and restore its value relative to water prices as at 1 July 2010. PIAC submits that given the small Essential Water customer base, such an increase would represent a negligible imposition on the NSW Government.

Recommendation 4

PIAC recommends that the NSW Government increase the Essential Water pensioner rebate to reflect current water prices and restore its value relative to water prices as at 1 July 2010. The rebate should also be indexed to increase with future price rises.

3.1.1 Promoting the pensioner rebate and access to Centrepay

PIAC believes that the information about the Essential Water pensioner rebate is not easily accessible on the company’s website. While the application form is available online, the amount of the rebate is not stated.¹⁴ In PIAC’s experience, if a rebate is not well promoted, some eligible pensioners may not access it, meaning they will be paying higher bills than necessary.

Similarly, Essential Water’s website does not contain information about the availability of Centrepay. Centrepay provides a valuable tool for recipients to manage their income. While PIAC understands that Essential Water allows customers to use the Centrepay service, PIAC is concerned that not all customers may be aware of this fact.

PIAC, therefore, recommends that Essential Water increase the amount and visibility of information about the Pensioner Rebate and Centrepay available on its website. PIAC further recommends that Essential Water promote the availability of the rebate and Centrepay through local media and through its engagement with local community groups (see Customer Council Membership, below).

Recommendation 5

PIAC recommends that Essential Water increase the amount and visibility of information available on its website regarding the Pensioner Rebate and the availability of Centrepay. Both measures should also be promoted through local media and community welfare organisations.

3.1.1.2 Requirement to inform customers about rebates and other assistance

PIAC has previously made recommendations to IPART about informing Hunter Water customers about rebates, especially the rebate for low water pressure.¹⁵ Hunter Water does not have remote monitoring of water pressure and relies on customers to report problems in this area. A result of this advocacy was a requirement in Hunter Water’s Operating Licence for customers to receive a pamphlet at least once per year that outlines their entitlement to any rebates (among other issues).¹⁶ This information must also be published in local newspapers at least once per year.¹⁷

¹³ Ibid, 62.

¹⁴ www.essentialwater.com.au/content/pensioner-concessions, as at 27 September 2013.

¹⁵ Letter from Edward Santow to IPART (Narelle Berry), 7 October 2011, 1.

¹⁶ IPART, *Hunter Water operating licence*, cl 5.2.1–5.2.3.

¹⁷ Ibid, cl 5.2.4.

PIAC submits that this method represents an effective way of engaging with consumers, especially older consumers. PIAC therefore recommends that IPART encourage Essential Water to produce a pamphlet outlining customers' entitlement to rebates and other assistance, and to distribute this with bills at least one per year, and to provide it to any customer on request.

Recommendation 6

PIAC recommends that IPART encourage Essential Water to produce a pamphlet that informs consumers of their entitlement to rebates and other assistance. This pamphlet should be distributed at least once per year, or to any consumer on request.

3.2 Emergency assistance program

PIAC submits that Essential Water should develop a Payment Assistance Scheme (PAS) to provide emergency relief to consumers who are struggling to pay their water bills due to sudden financial hardship. The PAS could operate in the same manner as that offered by Sydney Water, where community organisations such as St Vincent de Paul and local neighbourhood centres verify the eligibility of consumers for PAS assistance. Emergency assistance is then directly credited to the eligible person's account. However, PIAC notes that its previous research has revealed that consumers in small communities are sometimes ashamed or embarrassed about needing help to afford utilities and consequently do not seek help. Local welfare organisations could help Essential Water develop a scheme that addresses this issue.

As part of its last price determination, Hunter Water indicated that the company's PAS costs its customers 14 cents per bill.¹⁸ PIAC acknowledges that the much smaller customer base of Essential Water may mean that the administrative costs of its schemes would be relatively higher. Nonetheless, in light of the significant assistance PAS offers consumers in retaining unrestricted connection to the essential service of water—in return for modest costs to all consumers—PIAC submits that Essential Water could achieve significant and beneficial social outcomes through the introduction of a PAS.

A PAS could also be designed to offer assistance to renters with their water usage bills. This would go some way to addressing the inequity of pensioners in rental accommodation being unable to access the current rebates, despite paying water and sewerage service charges through their rent.

PIAC notes that it made the same recommendation to IPART's 2012 price determination for water prices for Gosford City Council and Wyong Shire Council.¹⁹ In its Draft Report for that review, IPART noted this suggestion, in addition to others from PIAC and the NSW Council of Social Services would lead to an increase in opex for the two councils.²⁰ IPART did not offer any further analysis of the proposal and also did not explicitly reject it (but did not approve it).

PIAC believes that any rejection of its proposal should be informed by a cost/benefit analysis conducted by IPART. PIAC submits that such an analysis fits within the scope of the matters to

¹⁸ Hunter Water Corporation, *Submission to IPART on prices to apply from 1 July 2013*, 2012, 132.

¹⁹ Derum, O, *Water pressure on consumers: PIAC submission to IPART's review of water prices for Gosford City Council and Wyong Shire Council*, 2012, 3.

²⁰ IPART, *Gosford City Council and Wyong Shire Council: Prices for water, sewerage and stormwater drainage services from 1 July 2013 to 30 June 2017 – Final Report*, 2013, 75.

be considered by IPART as part of this determination under section 15 of the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW). Specifically, IPART is required to consider ‘the protection of consumers from abuses of monopoly services in terms of prices, pricing policies and standards of service’²¹ and ‘the social impact of its determinations and recommendation’.²²

If IPART concludes that the benefits of Essential Water introducing a PAS outweigh the costs, PIAC recommends that IPART request that Essential Water examine alternative ways of delivering emergency financial assistance to its customers. Essential Water should engage with community stakeholders as part of this process (see below).

Recommendation 7

PIAC recommends that Essential Water develop Payment Assistance Schemes to help consumers experiencing sudden financial hardship to pay their water and sewerage bills.

Recommendation 8

PIAC recommends that if IPART does not support PIAC’s recommendation for Essential Water to introduce a PAS, IPART should request that Essential Water examine other ways that emergency financial assistance could be delivered to its consumers.

4. Customer council membership

In its submission to IPART, Essential Water states that it has ‘an ongoing customer relationship program aimed at engaging with individuals, groups and organisations to facilitate business operation and development’.²³ As part of this, Essential Water operates a Customer Council, which meets twice a year.²⁴ However, PIAC notes that there is no representative of low-income and vulnerable consumers on that Council, and residential consumers more generally are only represented by organisations that also have their own specific concerns (Broken Hill City Council, Broken Hill Health Council).

At the same time, Essential Water states that its management engages with community service organisations and welfare agencies.²⁵ While PIAC welcomes this engagement, it submits that one such organisation should be invited to join Essential Water’s Customer Council. PIAC has experience in participating in the Customer Councils of utility providers, and has found that such participation builds our own capacity to understand and participate in issues and debates related to water provision, which in turn benefits the residential consumers that PIAC represents. The Customer Council would also benefit from having a perspective from the community welfare sector.

At the same time, PIAC also knows from its own experience that participating in customer councils places a burden on the organisation in question. It is therefore extremely important that all members are appropriately compensated for their participation. This is especially important for organisations in the community welfare sector, which is generally the most poorly resourced sector.

²¹ *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), s 15(b).

²² *Ibid* s 15(k).

²³ Essential Energy, above n 1, 24.

²⁴ *Ibid*.

²⁵ *Ibid*, 25.

Recommendation 9

PIAC recommends that Essential Water invite a representative of a community welfare organisation to join its Customer Council. All Customer Council members should be appropriately compensated for their participation in the group.

4.1 Developing models for customer assistance

As noted above, PIAC's previous recommendation that water utilities introduce PAS arrangements was not accepted in IPART's final determination. If Essential Water does introduce such a scheme, PIAC recommends that Essential Water consult with local community welfare organisations on the most effective form for such a scheme to take. Organisations such as St Vincent de Paul would have an in-depth understanding of the challenges facing low-income and vulnerable consumers in relation to water and sewerage bills in the Broken Hill region.

Recommendation 10

PIAC recommends that Essential Water consult with local community welfare organisations in the development of an emergency financial relief scheme for residential consumers.

5. Length of the determination

IPART's Issues Paper asks stakeholders to comment on the 'appropriate length of the price path for the upcoming determination period'.²⁶ In recent price determinations for Hunter Water and Gosford/Wyong Councils, PIAC has argued that four-year determinations are appropriate.²⁷ PIAC agrees with IPART that in this instance, a four-year determination provides 'an appropriate balance between providing certainty to the regulated business and limiting delays in customers benefiting from electricity gains'.²⁸ In addition, PIAC submits that a four-year determination also reduces the risk that consumers will pay above efficient prices for a prolonged period. PIAC, therefore, recommends that IPART deliver a four-year price path for Essential Water.

Recommendation 11

PIAC recommends that IPART deliver a four-year price determination for Essential Water.

²⁶ IPART, above n 4, 20.

²⁷ Derum, above n 4, 8; and, Derum, O, *Water pressure on consumers – PIAC submission to IPART's review of water prices for Gosford City Council and Wyong Shire Council*, 2012, 10.

²⁸ IPART, above n 4, 19.

