



public interest
ADVOCACY CENTRE

Submission to IPART's Review of the Sydney Water Corporation Operating Licence

27 August 2018

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

- NSW Council of Social Service;
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- St Vincent de Paul Society of NSW;
- Good Shepherd Microfinance;
- Affiliated Residential Park Residents Association NSW;
- Tenants Union;
- Solar Citizens; and
- The Sydney Alliance.

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Public Interest Advocacy Centre



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That the Sydney Water Corporation Operating Licence objective reflect the intended outcomes of the licence which includes capturing the broader social good that is Sydney Water's remit.

Recommendation 2

That time be taken to meaningfully amend the performance standards to better reflect consumers preferences and willingness to pay.

Recommendation 3

Switching to paperless billing should be encouraged via techniques other than discounts or fees to ensure that the economic and environmental benefits of paperless billing do not come at the expense of people for whom the discount or fee is a significant burden.

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Recommendation 15

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Recommendation 16

That if established, a Consumer Challenge Group be in addition to the Customer Council. Alternatively, that Sydney Water be free to engage their own customer research and engagement experts in addition to the Customer Council.

1. Overview

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to participate in IPART's 2018 *Review of the Sydney Water Corporation Operating Licence*. PIAC discloses that it is a member of the Sydney Water Customer Council. Our comments are also informed by being a member of the Sydney Water Customer Council and by being an observer on a number of deliberative forums held by Sydney Water as part of the review of this Operating Licence and its 2019-20 pricing review.

As the Issues Paper highlights, Sydney Water's regulatory framework includes matters related to:

- the provision of an essential service;
- water conservation;
- environmental impacts; and
- customer protections.

Sydney Water's business cannot be defined narrowly in terms of the cost-efficient delivery of a monopoly service; it exists to fulfil multiple economic, environmental and public purposes. Therefore, PIAC considers that Sydney Water's operating licence should reflect these 'public good' purposes.

2. Licence structure

Question 3. Do you agree with our proposed amended licence structure?

The proposed structure appears practical and straight forward. Having a common licence structure for all large NSW public water utilities is worthy goal, as long as the consistency leads to best practice across the board rather than resulting in an overall lowering of standards.

3. Licence context and authorisation

Question 4. Do you agree with our preliminary view to modify the existing licence objective to also reflect the intended outcomes of the licence? Do you support our proposed objective?

The licence objective should reflect the intended outcomes of the licence. However, the new objective proposed by IPART is quite narrow, and does not capture the broader social good that should be Sydney Water's remit. Sydney Water's modification of the objective does go further to capture this broader role.

Recommendation 1

That the Sydney Water Corporation Operating Licence objective reflect the intended outcomes of the licence which includes capturing the broader social good that is Sydney Water's remit.

4. Water Conservation

Question 14. Do you agree with our preliminary view to maintain the requirements to implement and report on water conservation program consistent with its economic level of

water conservation in accordance with the ELWC method, but to remove fixed targets for water usage and water leakage (which were phased out in the existing licence term) and remove the obligation for Sydney Water to notify and obtain IPART's approval of any proposed significant change to the ELWC method? Should the licence contain any additional obligations relating to water conservation activities?

It makes sense to have an outcomes approach to water conservation that can accommodate the varying value of water available at varying dam levels. As such, PIAC supports using the Economic Level of Water Conservation approach adopted in the last licence review as well as having a review of the methodology during the licence period.

PIAC considers that Sydney Water's Operating Licence should appropriately reflect 'public good' purposes, including water conservation, water security and a sustainable future water supply which are valued highly by Sydney Water's consumers. As such, PIAC is supportive of Sydney Water's suggestion that a reference to metropolitan water planning be retained.

5. Supply services and performance standards

Question 15. Do you agree with our preliminary views to:

- **maintain the existing obligations for drinking water quality but remove duplication in the obligations?**
- **move the requirements in Appendix F (Health and aesthetic water characteristics and raw water operational characteristic) from the existing Reporting Manual to a reporting schedule under the Drinking Water Quality Management System required by the licence?**

The rationale for removing any duplication is to reduce administrative burden. However, PIAC notes that Sydney Water and IPART's interpretation do not agree on which clauses are duplicates. Therefore, PIAC considers it would be prudent to retain these clauses in the absence of agreement.

Question 18. Do the existing System Performance Standards measure the most appropriate and relevant service outcomes? Are they specified in the best way to provide cost-effective service outcomes?

Question 19. Do you agree with our preliminary view that we should use an economic approach to setting System Performance Standards that takes account of the value that customers place on the level of services?

PIAC agrees with IPART that there should be an approach to System Performance Standards which reflects customers' preferences, the value they place on services and their willingness to pay.

From Sydney Water's consumer feedback, having notice of an interruption significantly reduces the inconvenience reported.¹ This could be interpreted that Sydney Water's customers would

¹ Sydney Water Corporation, *Review of Sydney Water's Operating Licence, Response to Issues Paper*, August 2018, p52

prefer, when possible, that there be regular ongoing maintenance with notice, rather than emergency repairs without notice. In addition, feedback at deliberative forums suggests that consumers are most unhappy with repeat events which can be interpreted as ‘not fixing the problem properly’.² Therefore, it could be argued that consumers prefer that Sydney Water look after their assets properly, putting in the resources to get the job done properly the first time.

These issues need to be explored in greater detail and consumers need to understand the economic reality of the various scenarios (e.g. that certain waste water overflow events are hard to predict, making preventative measures likely to be cost prohibitive).

PIAC agrees with Sydney Water that amending the performance standards to better reflect consumers preferences and willingness to pay is a complicated process to do properly and that it is preferable to do this correctly, even if this means that new performance standards are not completed within the review’s timetable.

Recommendation 2

That time be taken to meaningfully amend the performance standards to better reflect consumers preferences and willingness to pay.

The water pressure standard does not currently capture the full picture of water pressure issues since it only records one incidence per property and a property can include a whole apartment building because it receives only one water bill.

PIAC supports Sydney Water’s proposal to consult with consumers about resolving the chronic low pressure problems in the six areas affected. Consumers should be given enough information to understand the extent and inconvenience of the problem as well as the cost benefits of remedying the problem.

PIAC also supports Sydney Water’s proposal to change what it reports on in regards to water pressure. If possible, it would be helpful if multiple dwelling apartment blocks could be identified so that the true number of affected dwellings could be better understood.

However, PIAC is yet to be convinced that water pressure should only be reported on and rather than coming under the System Performance Standards, as proposed by Sydney Water.

Question 21. What are your views on maintaining or removing the existing obligations on Sydney Water regarding the Priority Sewerage Program?

PIAC supports the proposal that the NSW Government undertake a review of the Priority Sewerage Program. As part of this, the Government should consider the capacity to pay of the direct beneficiaries, as well as the wider environmental and health benefits.

6. Customer and stakeholder relations

Question 26. Do you agree with our preliminary view to update the existing obligations for our customer protection on the ways Sydney Water communicates with customers?

² Ibid p53

Whilst it is cost effective and better for the environment to have as many communications as possible in electronic form, the reality remains that this may not be appropriate or suitable for many in the community. This may be due to people not being comfortable with electronic communications or because they do not have regular and reliable access to the internet. Many of these people tend to be low income and vulnerable households, including older consumers. Sydney Water proposes that they might offer a discount if a customer chooses to receive a bill electronically.³

Whether there is a discount or charge for a paper bill, it still punishes those who can least afford it. The economic and environmental benefits of paperless billing should not come at the expense of people for whom the discount or fee is a significant burden.

The NSW Government placed a ban on charging a fee for paper energy bills.⁴ In addition, Federal Treasury has been investigating removing paper bill fees for essential services or altogether.⁵ Putting a price on Sydney Water paper bills is out of step with the current direction to protect consumers, especially vulnerable and disadvantaged consumers.

Whilst there could be an exemption for rebate customers if there was a fee rather than a discount, this would not capture and protect all vulnerable and disadvantaged consumers, particularly large, low income working families (since the number of people in the household is an important driver of water usage⁶).

It would be preferable to implement alternative incentives to move people who wouldn't be disadvantaged by receiving bills electronically off paper bills. For example, there could be a competition where everyone who switches goes in the draw to win a prize. It could also be effective to remove barriers such as 'just getting around to it' by reminding people (such as nudge techniques) and making it as easy as possible to switch to paperless billing.

Recommendation 3

Switching to paperless billing should be encouraged via techniques other than discounts or fees to ensure that the economic and environmental benefits of paperless billing should not come at the expense of people for whom the discount or fee is a significant burden.

A significant portion of Sydney's residents are renters and whilst IPART notes that customers are property owners⁷, the Customer Contract notes that you are a customer if you receive water supply services and/or wastewater services from Sydney Water⁸. Most tenants are responsible for paying for their water usage charges so are paying for services from Sydney Water.

³ Sydney Water Corporation, *Review of Sydney Water's Operating Licence, Response to Issues Paper*, August 2018, Appendix 4: Proposed Customer contract with tracked changes, p11.

⁴ <https://www.energy.nsw.gov.au/energy-consumers/your-rights>

⁵ https://consult.treasury.gov.au/small-business-and-consumer-division/fees-for-paper-bills/supporting_documents/Fees%20for%20paper%20bills%20%20Consultation%20Paper.pdf

⁶ IPART, *2015 household survey – Water usage*

⁷ IPART, *Review of the Sydney Water Corporation Operating Licence*, June 2018, p7.

⁸ Sydney Water Corporation, *Review of Sydney Water's Operating Licence, Response to Issues Paper*, August 2018, Appendix 4: Proposed Customer contract with tracked changes, p5.

The process for passing on bills to tenants by agents or owners is often ad hoc and unreliable. It is unlikely that bill inserts, including the pamphlet explaining the Customer Contract will be passed on to renters. This requires renters to proactively go to the Sydney Water website or contact Sydney Water to view the pamphlet explaining the Customer Contract or the Customer Contract itself. Until this issue is remedied, it is still prudent to include notification of the Customer Contract via a newspaper or that a note be made on the bill itself (which is more likely to be seen by the tenant than a bill insert) of the Customer Contract's existence and where to view it.

Recommendation 4

That notification of the Customer Contract be included in newspapers or on bills (rather than a bill insert) until there is a better system to communicate directly with renters.

Ideally, information about payment assistance and rebates would be included more regularly than once a year (as proposed by Sydney Water⁹) and not in the newsletter, but somewhere on the bill itself. Soon to be released research undertaken on behalf of PIAC reveals that not knowing where to get help with water and energy bills was the number one barrier to seeking assistance for people who were eventually restricted/disconnected¹⁰. Ensuring that people know that Sydney Water can assist them if they are having payment difficulties – and getting that help before debt accumulates and there is any threat of restriction – should be a priority.

Recommendation 5

That information about payment assistance be included on the bill itself and that this information be included more than once a year.

PIAC is pleased with the hardship program that Sydney Water offers. In particular, Sydney Water's efforts to go to the homes of their customers they cannot get in contact with is commendable. We note, however, that successful exit rates from their hardship program have reduced in the past year and Sydney Water should be asked to explain why that is the case.

Question 27. What are your views on Sydney Water's proposed Customer Contract that will be attached to its submission to this issues paper?

Please see above responses to question 26 regarding communications and the Customer Contract.

PIAC gives the following feedback regarding specific changes to the Customer Contract:

3.4.4 Although a flexible approach to informing the community about water restrictions is generally appropriate, it should be noted that there are still many in the community who do not have access or regular access to the internet or participate in social media. As such, it may still be appropriate to advertise in newspapers if sufficient media coverage is not achieved.

⁹ Sydney Water Corporation, *Review of Sydney Water's Operating Licence, Response to Issues Paper*, August 2018, p80

¹⁰ PIAC, *Close to the Edge*, due for publication in August 2018

Recommendation 6

That if sufficient media coverage is not achieved regarding water restrictions, then newspaper advertising may still be appropriate.

4.3 There have been problems identified with eligible households not receiving concessions on their energy bill, although we are not sure about whether this is an issue for Sydney Water.

Sydney Water should proactively ensure that their customers are aware that if they have a pensioner concession card they are entitled to a concession from Sydney Water. For example, new or moving customers should be asked this question, information should be included regularly on bills and in Sydney Water newsletters and it should be prominent on Sydney Water's website. Sydney Water could also work with organisations who work with people entitled to a pensioner concession card such as Council on the Ageing and Combined Pensioners and Superannuants Association of NSW to help them identify ways to communicate this message to their members.

Recommendation 7

That Sydney Water work proactively to ensure that their customers are aware that if they have a pensioner concession card they are entitled to a concession from Sydney Water.

4.4 PIAC was an observer at some of Sydney Water's deliberative forums and heard that there is a desire in the customer base for consistency or control over bills. Whilst reducing usage goes some way to controlling bills, seasonal usage can result in fluctuating bill amounts. Bill smoothing, which is offered by some energy retailers, could help remedy this problem. This could also enable bills to be sent monthly which many households, particularly low-income households, find useful for budgeting.

Recommendation 8

That Sydney Water explore bill smoothing options.

4.4.3 and 4.4.4 Further to the comment in response to question 26 regarding a discount for receiving bills electronically, PIAC is concerned that the addition by Sydney Water of 'We may offer you a discount if you choose to receive your bill electronically' and 'We may offer you a discount for specific payment options', will disadvantage low income and disadvantaged households who do not have regular or reliable access to the internet. Similar to the ban on charging for paper energy bills, there is also a ban charging extra for paying energy bills at Australia Post¹¹. Again, this was imposed to protect low income and disadvantaged households and it would be out of step for Sydney Water to take this position. Similar to what was outlined above regarding electronic billing, there are ways to incentivise lower cost payment methods that do not disadvantage low income households, such as removing barriers and holding competitions etc.

Recommendation 9

That Sydney Water not disadvantage low income households by offering discounts or fees for different payment methods.

¹¹ <https://www.energy.nsw.gov.au/energy-consumers/your-rights>

5.1 Considering this is a consumer-focused document, referring to experiencing 'payment difficulty' rather than experiencing 'financial hardship' would be preferable. 'Hardship' is subjective and a potentially pejorative term that few consumers would readily use as a self-identification.

Recommendation 10

That the term 'customer hardship' be replaced with 'payment difficulty' in customer focused documents such as the Customer Contract.

6.1 It seems appropriate that information about restriction or disconnection be included on bills, not just available on the Sydney Water website, or by request. The suggested change by Sydney Water requires vulnerable consumers to be proactive and seek out the information themselves. Similar to the point raised above that people often do not know where to get help, it is preferable that people are aware of what the consequences of not paying are and what support there is to avoid this.

Recommendation 11

That information about restriction/disconnection policies continue to be included with bills.

7.2 PIAC supports:

- Aligning the rebates with the feedback Sydney Water received regarding inconvenience.
- That occupiers be eligible for rebates because they are the ones who are inconvenienced.
- That there be advance notice of outages wherever possible for occupiers, not just owners. Advance notification will reduce the inconvenience experienced by occupants. We note that there is currently a letter box drop which is likely to reach most occupants, however, investigating other means to contact occupants would be desirable.

10.2 PIAC would encourage a variety of attempts to contact customers before they are charged as an unmetered property for water usage. For example, someone may not be receiving their mail or emails but is less likely to not be receiving both.

Recommendation 12

That there be a variety of attempts made to contact customers before they are charged as an unmetered property.

10.4 It is likely to be worthwhile aligning practices with some best practice coming from the Australian Energy Market Commission's Estimated meter reads rule change. For example there should be options for the provision of self-reads that are accessible and inclusive for consumers with different levels of ability and access to technology. Bills based on estimates should be clearly marked and provide access to information on how an estimate is formulated.

Recommendation 13

That meter self-reads be aligned with best practice methods from the AEMC's Estimated meter reads rule change.

The dot points listed could be undertaken in a progressive order rather than how they are currently listed. PIAC suggests the following order:

- ask you to read the **meter** yourself and provide us with the reading and failing that:
- seek access at a time suitable to you, which may incur an additional fee and failing that:
- make other arrangements with you and failing that:
- ask you to relocate the **meter** at your cost or
- ask you to install a remote reading device, which may incur an additional fee and failing that:
- take action under clause 6.4 and restrict or disconnect your supply until you replace your pipes or remove the obstruction or concrete around the **meter**

Recommendation 14

That there be a more logical order given for steps to be taken when Sydney Water is unable to obtain a meter read.

11.4 PIAC does not see why the sentence 'Our leaks and faults phone number is listed on your bill, in the telephone directory and on our website' has been deleted. These seem like reasonable places to have the leaks and faults number listed. PIAC would like to clarify that Sydney Water is proposing to delete this sentence from the Customer Contract but that the phone number will still remain on the bill, telephone directory and website.

P38 Definition of 'Drinking water'. PIAC queries why this definition has changed.

Rebates: PIAC supports the proposition that renters should be paid the rebates as they are the party who are inconvenienced by the event, not owners who do not live at the premises.

Fees and discounts: Please refer to our comments above for PIAC's views on fees and discounts.

Question 28. What are your views on the effectiveness of the existing Customer Council?

PIAC is a member of the Sydney Water Customer Council. On the whole, PIAC considers that the Customer Council works effectively, allowing consumer representatives to engage with Sydney Water, including senior management (meetings are chaired by Sydney Water Managing Director Kevin Young, where possible). The Customer Council receives briefings about issues and processes currently facing Sydney Water. Where issues are complex, Customer Council members are invited to participate in out-of-session discussions with Sydney Water to provide an opportunity to cover all facets of a particular topic in the necessary detail.

Customer Council members have also been invited to attend forums with consumers run by Sydney Water. These events provide members of the Customer Council with the opportunity to hear the views of consumers that they might not represent.

PIAC does not agree with IPART's comment that 'regular' customer views are not represented through Sydney Water's customer engagement. PIAC represents all NSW consumers – we focus on low income and vulnerable consumers as they have the most at stake from losing access to

essential services such as water. Greater advocacy capacity is required to represent all consumer groups. Many of the Customer Council members deal with competing priorities and limited funding. Some of the regular Customer Council participants are representing their organisations as volunteers. These constraints affect an organisation's ability to fully participate as members of the Customer Council, such as having input into Sydney Water's processes outside of the meetings, such as making submissions to this Operating Licence review and attending Sydney Water's deliberative forums as observers. PIAC expects that many of the members would be much more active if they had the capacity to do so.

PIAC does not oppose Sydney Water's suggestion to change the name from Customer Council to Community Advisory Council.

Recommendation 15

That the Customer Council be maintained, even if it is renamed Community Advisory Council.

Question 29. Do you agree with our preliminary view on the composition and role of the Customer Council?

The proposal put forward by IPART (that there be a Customer Council similar in composition to the UK water utilities Customer Challenge Groups) is a very different model than the current Customer Council. PIAC anticipates this would be a group of experts who are paid full rates and would be required to participate in much more lengthy discussions and deliberations than the current Customer Council does.

PIAC has worked closely with the AER's Consumer Challenge Panel (CCP). The role and level of involvement of the CCP in general is not defined in great detail, but is instead heavily dependent on the particular sub group. PIAC has found them to be useful sources of expertise. However, their role is very different from a Customer Council and they certainly do not replace the need for a Customer Council. Necessarily, CCP members provide expert feedback on business proposals from a broad perspective. A Customer Council, on the other hand, is made up of organisations representing specific groups of consumers and can give detailed feedback from that perspective. Both types of input are important in regulatory processes.

Any move to implement a group of experts such as the AER's CCP must complement – not replace – the existing Customer Council.

Alternatively, PIAC has found Sydney Water competent at successfully engaging their own customer research and engagement experts. PIAC supports Sydney Water's proposal that they be free to engage their own expert service providers to conduct engagement activities.

Recommendation 16

That if established, a Consumer Challenge Group be in addition to the Customer Council. Alternatively, that Sydney Water be free to engage their own customer research and engagement experts in addition to the Customer Council.

Question 30. Do you agree with our preliminary view to remove prescriptive obligations and replace them with outcome-based obligations?

PIAC considers that the obligations should ensure broad representation of the community, with a particular focus on minority or vulnerable groups who may otherwise be difficult to capture the views of.

Apart from this, PIAC agrees that there should be a focus on outcome-based obligations, and looks forward to receiving further details.