



7 April 2022

Ms Carmel Donnelly
Chair
Independent Pricing and Regulatory Tribunal
PO BOX J35
Haymarket Post Shop NSW 1240

Dear Ms Donnelly

Review of the Hunter Water Corporation Operating Licence

Thank you for the opportunity to comment on the draft package of IPART's Review of the Hunter Water's Operating Licence 2022-2027.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers, including Hunter Water. Our comments are informed by our investigations into these complaints, and through our community outreach and stakeholder engagement activities.

EWON made a submission to the Issues Paper of this review. In that submission we welcomed a number of positive changes proposed, such as the inclusion of the condition that would require Hunter Water to develop and implement a family violence policy. We also provided feedback on some proposed conditions that we considered may require additional review, to strengthen consumer protections.

We have only responded to the points in the draft licence that to further clarify our comments from the Issues Paper and those that align with issues customers raise with EWON, or with our organisation's operations as they relate to this rule review.

If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy and Research, on [REDACTED].

Yours sincerely

[REDACTED]

Janine Young
Ombudsman
Energy & Water Ombudsman NSW

IPART Hunter Water Corporation Operating Licence Review: Draft Licence 2022-2027

Clause 26 – Provision of information to Customers and the general public

In its submission to the Issues Paper, EWON recommended that any changes to this Licence condition include a provision that when a customer has not elected to receive communication electronically, then a pamphlet is still required to be sent by mail.

To address these concerns, IPART has proposed that Hunter Water be required to make any communications available to all residential customers free of charge with their bills, and to ensure that customers are provided with a physical copy, if they have elected to not receive electronic bills. Rule 26 (3)(b) of the Draft Licence states that Hunter Water must provide the communication and any updates free of charge ‘to all residential Customers, at least annually with their Bills’. There is no specificity regarding different communication methods. It is appropriate that the wording be updated to provide clarity on this to include ‘by the same method that the Customer chooses to receive their bills.’

It is pleasing that IPART proposes to audit this Licence requirement, however the information contained within customers rights protection policies may not be something that tenants will actively look for. While it may be available on Hunter Water’s website and on request through the General Enquiry process, this assumes that all tenants will be able to access, or know to look for, this information. There is the potential for a gap in consumer protections for customers who are unable to access this information and by sending the information directly to all addresses will help close this gap.

Clause 27 - Consumers

EWON strongly supports the further extension of protections to Consumers within the Customer Contract ‘as though the Consumers were parties to the Customer Contract’ in:

- Clause 2 – what is a customer contract?
- Clause 5 – what you pay
- Clause 6 – what can I do if I am unable to pay my bill?
- Clause 7 – restriction or disconnection of services
- Clause 12 – redress
- Clause 13 – what can I do if I’m unhappy with the service provided by Hunter Water?
- Clause 15 – Consultation, Information and Privacy.

The changes in the draft licence go a long way to assuring all consumers are afforded the same protections available under the Customer Contract. EWON welcomes the extension of these provisions under the Sydney Water Operating Licence.

For transparency and provision of clear information to all customers, it is appropriate for the Customer Contract to also specify what protections apply to both customers and consumers.

Clause 30 – Customer Consultation

EWON strongly supports the inclusion of Clause 30 of the operating licence, which will require Hunter Water to undertake Customer and Consumer consultation to

- understand its customers’ preferences and willingness to pay for service levels;



- understand how its systems and processes can better support more effective, direct relationships with Consumers including residential tenants;
- obtain advice on the Customer Contract; and
- obtain advice on such other key issues related to Hunter Water's planning and operations under this Licence as Hunter Water may determine.

This process will assist in a building of rapport and trust with Hunter Water customers and will provide valuable insight that will lead to better policy and customer focused initiatives. EWON may be able to provide insight on issues that customers and consumers raise through our investigations and is willing to consult with Hunter Water in its development of its Customer Consultation Procedure.

Clause 32 – External dispute resolution scheme

In EWON's submission to the Issues Paper, it acknowledged that the energy and water space is an evolving market, and in that light, we understand that a less prescriptive approach to external dispute resolution may be more appropriate.

In the draft Licence IPART has, at Clause 32 (1), indicated that 'Hunter Water must be a member of the Energy and Water Ombudsman NSW, or an alternative scheme approved by IPART in writing'.

The draft Customer Contract states 'IPART can approve an alternative dispute resolution scheme under clause 32 of the Operating Licence. If an alternative scheme is approved, we will update the Customer Contract. Any variation of the Customer Contract is subject to approval by the Governor'

The licence should at a minimum, mirror the additional information noted in the draft Customer Contract. EWON also strongly recommends that the approval of any external dispute resolution scheme by IPART should only be provided if that scheme:

- has gone through the same approval process as required for the approval of schemes under the *Electricity Supply Act 1995* and the *Water Industry Competition Act 2006*
- is approved by the Minister and published in the NSW Government Gazette
- is free to consumers
- provides an independent dispute resolution service
- meets the Commonwealth [Benchmarks for industry-based customer dispute resolution](#).

EWON also notes that IPART should ensure that it does not create a situation where there are multiple EDR schemes operating in the same space.

In its External Dispute Resolution Review Final Report [Review of the financial system external dispute resolution and complaints framework](#), the EDR Review Panel noted that:

"The existence of multiple EDR schemes with overlapping jurisdictions means: it is difficult to achieve comparable outcomes for consumers with similar complaints; it is more difficult for consumers to progress disputes involving firms that are members of different schemes; and there is an increased risk of consumer confusion. Multiple EDR schemes also result in duplicative costs for industry and for the regulator. Allowing competition between schemes, as currently occurs between FOS [Financial Ombudsman Service] and CIO [Credit &



Investments Ombudsman], *creates the risk that schemes compete in relation to benefits provided to financial firms, rather than on achieving better outcomes for consumers.*"¹

Changes in this space need to ensure that the process of independent and free dispute resolution services to consumers is not compromised. Major water providers being members of a different external dispute resolution scheme from WIC Act licence holders could create similar issues to what occurred in the financial sector space in the past. This situation was addressed by the establishment of the Australian Financial Complaints Authority which took over the jurisdictions of the FOS and the CIO in 2018.

Part 8 - Information and Services for competitors

EWON supports the revised wording in Part 8 of the Licence, which relates to WIC Act licencees, to include the requirement that Hunter Water act in 'good faith' when negotiating with WIC Act licencees and 'potential competitors'. It also supports the condition for publishing of servicing information and/or annual reporting requirements.

The new conditions assist in providing a consistent approach across major water providers in NSW and provide additional protections for the delivery of water and wastewater services to the end users of Hunter Water's wholesale customers.

As noted in its submission to the Issues Paper, EWON acknowledges that IPART is currently working with the NSW Department of Planning and Environment on designing the new WIC Act and Regulation, and any changes to the operating licence and an industry code of conduct should be flexible enough to accommodate new legal drafting.

Information about payment assistance

In its submission to the Issues Paper, EWON supported the inclusion of a new condition for Hunter Water to provide information to customers and consumers about payment assistance on the date that Hunter Water first identifies that the customer is facing difficulty. Assisting customers experiencing financial vulnerability at the earliest opportunity leads, in EWON's experience, to less accrued debt over time and increases a customer's ability to pay their water bills in accordance with an established payment plan.

IPART has not recommended the inclusion of this condition, as it has not identified any issues with how Hunter Water already does this. As the current economic environment is volatile, and with increasing significant environmental events, there is an increasing need to ensure early identification and assistance for customers experiencing financial vulnerability.

Whilst Hunter Water may adequately fulfil this obligation the inclusion of the new condition in the licence adds another layer of consumer protections. This will help customers, even those who may not usually think that they need it, self-identify for assistance.

Restructure of the Licence

EWON supports the restructure of the Licence to be consistent with the Sydney Water Operating licence, to support consistency across major water providers.

¹ Commonwealth of Australia report 3 April 2017; [Review of the financial system external dispute resolution and complaints framework](#) page 8



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Enquiries about this submission should be directed to Janine Young, Ombudsman on [REDACTED]
or Rory Campbell, Manager Policy and Research, on [REDACTED]