

28 July 2016

Dr Peter Boxall
Chairman
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop
NSW 1240

Dear Dr Boxall

Review of the Operating Licence for Hunter Water Corporation

Thank you for the opportunity to comment on IPART's *Review of the Hunter Water Corporation Operating Licence. Water Licensing – Issues Paper May 2016*.

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 submission focuses on the proposed changes to the Customer Contract as outlined in *Hunter Water Submission to IPART's Issues Paper Review of the Hunter Water Corporation Operating Licence 15 July 2016*.

EWON believes that the proposal by Hunter Water to improve the Customer Contract by moving to a simpler structure and by making it more consistent with Sydney Water's Customer Contract is a positive step.

For clarity, further comments reference the sections of the proposed changes by the numbers used in Hunter Water's submission.

7.2.2 Late Payment Fees

Hunter Water's position to not utilise this opportunity to introduce a late payment fee for overdue account balances as part of this review of the Customer Contract is welcomed.

7.2.3 Service Rebates

Supply Interruptions

Service rebates for supply interruptions are currently closely aligned to Sydney Water's in event categories and rebate levels. The linking of the rebate levels to multiples of water usage is favourable to Hunter Water's customers because of the automatic adjustment each year. In comparison, Sydney

Water customers receive an adjustment to the rebate level every five years through the operating licence review.

However in the area of eligibility, EWON notes there is a significant disadvantage for Hunter Water customers. Currently Hunter Water offers rebates to customers who experience three or more planned interruptions in a financial year, each exceeding five hours in duration. Hunter Water proposes to further reduce customer's eligibility by introducing its application to peak hours only. In contrast, Sydney Water provides a rebate for each event exceeding 5 hours.

EWON notes that Hunter Water has not issued any rebates for this event category in the past four years¹. This poses the question as to why a change is necessary.

The rebate purpose is twofold. First it is to compensate customers who experience a reduced level of service. Second it acts as an incentive to prevent service failures. Clearly, if no rebates are being paid then either:

- no planned interruptions exceed the eligibility criteria; or
- no-one applies for a rebate, which could mean it is not promoted.

If the latter case applies, then the current arrangements are not meeting either stated purpose. Accordingly EWON is of the view that Hunter Water should further explore this matter.

Wastewater Overflows

Hunter Water currently provides a \$67.50 rebate for a first dry weather overflow on to a customer's property, no payment for a second event and \$270 for a third event in a financial year. The proposal is to improve this for customers by providing \$66.60 for the first event then \$132.20 for a second event and a further \$132.20 for a third event.

However, Sydney Water provides \$60 for a first event and then if there is a second event they provide a rebate equal to the customer's annual wastewater service charge, a more appropriate level of compensation for this type of event. Hunter Water has rejected the Sydney Water model stating:

*"Adopting Sydney Water's structure is estimated to roughly double annual expenditure on this rebate category so the benefits of (sic) are unlikely to exceed the costs."*²

The use of the word 'benefit' is regrettable given that it is unlikely that any customer would consider financial compensation for a wastewater overflow to be a benefit. The rebate that a customer receives, for what is arguably the most inconvenient service failure, is significantly less for a Hunter

¹ p42 *Hunter Water Submission to IPART's Issues Paper Review of the Hunter Water Corporation Operating Licence 15 July 2016*

² p43 *ibid*

Water customer and the incentive for Hunter Water to undertake works to avoid such events is also less. A benefit to customers and to the supplier would occur when there is an incentive to avoid service failures and it is acted upon.

Accordingly EWON is of the view that Hunter Water should further explore this matter from both a rebate and incentive perspective.

7.3.1 Customers and Consumers

EWON agrees that the definitions of customers and consumers in the operating licence and the customer contract are appropriate. Hunter Water's decision to provide service rebates through the water usage component of the bill ensures that it is consumers, including tenants, who receive the benefit rather than a property owner who may not have experienced the event.

There is one area that should be improved in the area of customers and consumers. The number of water flow restrictions undertaken by Hunter Water has increased from 350 in 2011-12 to 1,704 in 2014-15.³ A number of these water flow restrictions affect tenants who are defined as 'the occupier' in Section 11.2.8 of the customer contract.

Case study

A tenant being placed on water restrictions because of a landlord's failure to pay their bill is unreasonable. This was further exacerbated by not being offered a payment plan.

A tenant contacted EWON because her water supply had been restricted. The card left indicated that \$573 was required for reconnection even though the tenant did not pay for water usage under her tenancy agreement. The tenant was unable to contact the landlord and could not afford to pay the arrears in full.

Hunter Water informed EWON that the account needed to be paid in full and that the tenant could get her landlord to ring the provider to discuss a payment arrangement.

Water restriction is a serious matter where the occupant is not responsible for paying the water account. Where a tenant's supply is due to be restricted, it is important that sufficient notice is provided so that appropriate action can be taken by the tenant in relation to seeking orders for the landlord to meet their responsibility for paying the account.

³ p31 IPART *Review of the Hunter Water Corporation Operating Licence. Water Licensing – Issues Paper May 2016*

Such an approach could include providing a restriction warning notice not just to the account holder but also to the occupant of the supply address. If the occupant then contacts Hunter Water requesting further time to take the relevant action, perhaps at the NSW Civil and Administrative Tribunal (NCAT), then Hunter Water should be flexible. Imposing detriment on a tenant for a landlord's failure to pay an account is unreasonable.

EWON strongly believes that where a tenant is at risk of restriction, Hunter Water should lift the restriction if it is established that the outstanding amount is not normally paid by the tenant. Hunter Water can then take other recovery action against the landlord for the remaining charges, including making a claim against the property.

Further, if the restriction proceeds, tenants may be expected to pay all of the arrears to be fully reconnected. Clause (d) of section 11.2.8 of the customer contract states that restriction will not occur:

“(d) Without providing the occupier reasonable opportunity to pay the account”

It is EWON's experience, and the case study above demonstrates, that current practice does not match the spirit of this commitment. A policy of only accepting repayment of arrears in full and refusing offers of payment plans from tenants seems to be unnecessarily harsh. If a tenant has been paying for their consumption directly to the landlord, and is then expected to pay again plus also pay for the service charges (which they are not responsible for) to achieve full reconnection, then it seems only fair and reasonable that they have an opportunity to establish a payment plan and that reconnection be allowed on that basis.

IPART's Issues Paper states that it is an obligation on Hunter Water for its contract to:

“extend complaint handling and complaint resolution procedures to consumers (tenants or occupiers who do not own a property serviced by Hunter Water) in the same manner that the procedures would apply to customers (ie, property owners).”⁴

It is EWON's case experience that current practice relating to water restriction where it applies to occupiers rather than customers does not match this obligation. Tenants are not provided the opportunity to enter into payment arrangements and are not provided with extensions that are necessary to enable action against their landlord. It is EWON's view that the rights of occupiers (as designated in the customer contract) need to be acted upon by Hunter Water and that Hunter Water's practice needs to be improved to at least match the current obligations.

⁴ p30 IPART *Review of the Hunter Water Corporation Operating Licence. Water Licensing – Issues Paper May 2016*



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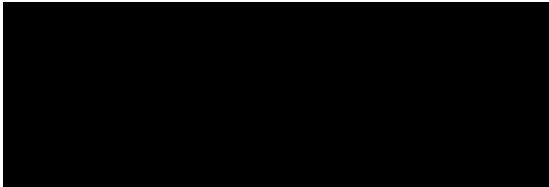
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If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy and Research, on [REDACTED]

Yours sincerely



Janine Young
Ombudsman
Energy & Water Ombudsman NSW