

9 November 2010

2010 Review of Hunter Water Corporation Customer Contract
Independent Pricing and Regulatory Tribunal
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Thank you for the opportunity to comment on the Hunter Water Customer Contract 2010. The Energy & Water Ombudsman NSW investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers, including Hunter Water.

Hunter Water's Customer Contract defines the relationship between Hunter Water and its customers, and is referred to by staff at EWON in investigating customer complaints. EWON welcomes many of the drafting changes to the proposed new version of the Contract, as on the whole these have been expressed in a more 'reader friendly' style, and have sought to remove some of the ambiguity in parts of the existing version of the Contract.

We have responded to those issues raised that are relevant to EWON's experience of customer complaints, and for ease of reference we have adopted the same numbering as the *Issues Paper*.

3.1 Hunter Water's rebate strategy

1. Is Hunter Water's proposal to apply rebates to the water usage component of a bill reasonable?

EWON supports the application of the rebate to the usage portion of the bill. Rebates provide some level of compensation for the inconvenience suffered when any of the designated variations to the normal water or wastewater services occur. When a property is tenanted, it is the tenant who suffers the inconvenience, so it is appropriate that the rebate is applied to the usage portion, which is typically paid by the tenant. This is a welcome and innovative change by Hunter Water from the previous position where the landlord received the benefit of any rebates via the service charge.

2. Are the proposed rebate levels, and method of calculation of rebates reasonable?

EWON supports the change in the method of calculating the rebate from a percentage of the annual service charge, to a specific kilolitre allowance. This flows logically from the change to applying the rebate to the usage component of the bill, and has the advantage of adapting automatically with any tariff change.

The dollar value of the kilolitre allowances provided in Hunter Water's *Submission*¹ is based on 2011/12 CPI adjusted \$/kL prices, with the basic rebate of 15 kL valued at \$28.00. This is less than the minimum rebate of \$50.00 provided for in Hunter Water's current Customer Contract, so represents a significant reduction in this consumer benefit.

We note however that the value of the proposed rebate is almost equivalent to Sydney Water's current rebate for equivalent events, expressed as '*10% of your quarterly water and/or wastewater service charge subject to a minimum payment of \$30.00*'². This indicates that the value of the basic rebate of 15kL is almost in line with industry practice elsewhere in NSW.

The rebates for a single wastewater overflow are also fairly closely aligned, with Sydney Water's contract providing a minimum rebate of \$50 and the draft Hunter Water allowance of 30 kL equating to \$56. The difference is greater however in the rebates for recurring wastewater overflows, with Sydney Water's contract providing a rebate '*equal to the whole wastewater service charge less any concession for the next four quarters*'. Sydney Water's current wastewater service charge is \$129.32 per quarter³, so the rebate amounts to \$517.28. In contrast, Hunter Water's draft contract allowance of 120 kL equates to only \$224.00.

The difference is even more marked, as Sydney Water's higher rebate is triggered by '*two or more wastewater service disruptions or internal wastewater overflows*' whereas Hunter Water's higher rebate is only applied after the customer experiences '*three or more*' events.

We query why customers in Hunter Water's area should be subject to any lower minimum redress payments compared to their counterparts in Sydney Water's area. This review is perhaps an opportunity for IPART to look at rationalising the levels of rebates between all the major urban water providers in NSW.

¹ *Hunter Water Corporation Customer Contract Review*: Table 1 at page 6

² *Sydney Water Customer Contract 2010 – 2015*: clause 7.2

³ At www.sydneywater.com.au/Publications/FactSheets/ServiceCharges.pdf

3. Is it reasonable for the rebate for planned water interruptions to be removed?

EWON notes the objective of aligning rebates with the system performance standards, and that there is no performance standard for planned interruptions.

We agree that limited interruptions to supply are acceptable when essential maintenance work needs to be carried out, so long as the appropriate notice is given as per clause 3.4.2 of the contract. We note from the the advice in the *Issues Paper*⁴ that if this notice is not provided, or the interruption exceeds the advised duration, then the interruption is considered to be unplanned, and rebates apply. This appears fair and reasonable, however for clarity, we recommend that this proviso is specifically added to clause 3.4.2.

The data from Hunter Water's customer panel survey provided in Appendix A of their submission suggests there was a low expectation of a rebate for planned interruptions in general. However when the interruption was for over five hours 91.2% responded that they would be inconvenienced, with 23.3% of those saying they would be extremely inconvenienced.

We note that Sydney Water provides a rebate to customer if the planned interruption exceeds five hours. Clause 3.4.2 of Hunter Water's draft contract also refers to this benchmark of five hours, in stating: *'We will attempt to reinstate your water or wastewater service within five hours in one continuous period.'*

The inconvenience experienced by customers once an interruption exceeds five hours appears to be acknowledged by both Hunter Water and their customer panel, and the fact that Sydney Water provides redress in these circumstances suggests it is best industry practice. EWON therefore recommends that redress for planned interruptions exceeding five hours is also included in Hunter Water's contract.

4. Is Hunter Water's proposal to only pay rebates for unplanned interruptions that occur between 5:00am and 11:00pm reasonable?

Hunter Water's customer survey data indicates that the majority of customers would not be inconvenienced by a water service interruption between 11pm and 5am. However EWON is of the view that there are sections of Hunter Water's customer base that could be considerably inconvenienced by interruptions during

⁴ At page 6.

these times, for example parents caring for a new baby, people with an illness or disability and their carers, and shift workers. It is not stated whether customers from these demographics participated in the survey.

A time restriction of this nature may also lead to uncertainty if part of the interruption is within the time period and part is outside it. We also note that Sydney Water does not have any such time restriction on its rebate for unplanned interruptions, so it is not broadly accepted industry practice.

EWON does not support this time restriction, and would recommend that the phrase ‘*between 5am and 11pm*’ is deleted from clause 7.2.

5. Should Hunter Water not issue rebates for unplanned interruptions where “alternative water supplies” are provided?

Hunter Water has suggested that where it makes an alternative water supply available, such as bottled water, a standpipe or tanker in the street, then the rebate for unplanned interruptions need not be paid. This exception to the previous rebate provision was supported by their customer survey. While we can appreciate that the provision of an alternative water supply is an innovative way to address the issue of customer inconvenience, we can anticipate problems in its implementation.

Unplanned interruptions by their very nature will entail some time delay during which customers are inconvenienced before the emergency crews arrive to address the cause and the ‘alternative water supply’ can be provided. It is not clear what would be considered an acceptable time lapse before the alternative water supply is made available. No time frame is provided for in clause 7.2, so on a strict reading of the current wording, a single bottle of water could be provided to a household after a twenty four hour interruption, and no rebate would apply. It does not appear that this time lapse issue was explored in the customer survey.

Interpretation of the word ‘provided’ could also be problematic. Would all the affected customers be door-knocked to advise them of the availability of the alternative water supply, or would parking a tanker in the street be considered sufficient to invoke this exception? Would this exception apply if a tanker was parked in the street but some customers could not get to it to access water, eg because of age or disability?

This provision is open to so much ambiguity and misinterpretation that we would recommend that the phrase ‘*and no alternative water supply is provided*’ is deleted.

6. Are Hunter Water’s proposed forms of “alternative water supply” reasonable?

The provision of an alternative water supply is an innovative way to address the issue of customer inconvenience, and the gesture would doubtless be appreciated by most customers affected by unplanned interruptions.

However in view of the problems discussed in Question 5 above, we suggest that this provision should be seen more in the light of a goodwill or good service gesture aimed at securing the comfort as well as the health and safety of Hunter Water’s customers, rather than as a trigger for excusing them for applying a rebate that would otherwise be payable.

7. Is Hunter Water’s proposal to maintain its existing rebate for low pressure but pay it only for reported and confirmed incidents reasonable?

Hunter Water’s draft contract continues the provision from the current version to require five occasions of low water pressure in a 12 month period before the rebate will be paid, but in the new draft the period of low pressure must be for 30 minutes or more. As a point of comparison, Sydney Water’s low pressure rebate is paid for any continuous period of 15 minutes, payable for one event each quarter. We note the significant difference here, and query why residents in Hunter Water’s area would receive a lower standard of service than their counterparts in Sydney Water’s area.

The requirement in Hunter Water’s draft contract that the customer has to individually report all five incidents, and have them confirmed by Hunter Water, appears unduly onerous. By contrast, Sydney Water’s rebate is granted automatically ‘*when you are identified through our monitoring.*’⁵ Is there any reason why Hunter Water is unable to detect these occurrences through their own monitoring?

The requirement on both Hunter Water and the customer to maintain these records of cumulative low pressure incidents over a twelve month period seems open to

⁵ *Sydney Water Customer Contract 2010 – 2015: clause 7.2*

error. This rebate would appear to be less demanding to administer if it could be applied at the next quarterly bill after any confirmed low pressure incident.

EWON notes the inconsistency between the two major urban water providers in the way this rebate is applied, and would support any moves to introduce more consistency in to this area.

8. Are Hunter Water's proposed rebates for wastewater overflows reasonable?

EWON supports the new division of this rebate into two parts, one for single occurrences of an overflow, and one for three or more overflows in one year. However we note the inconsistency with Sydney Water's equivalent provision⁶, which considers a 'recurring' event to be only 'two or more'.

We query why this provision is restricted to 'dry weather' events, as this limit was not contained in the current version of the contract. It is also not contained in Sydney Water's current *Customer Contract*, so does not appear to be standard industry practice.

The definition of 'dry weather wastewater overflow' in clause 15 indicates that Hunter Water's intention appears to be to exclude those incidents 'related to transporting excess wastewater flows during wet weather'. The terms *wet weather* and *dry weather*, however, can be open to interpretation.

It appears reasonable that Hunter Water's infrastructure should be able to cope with normal rain showers, with only extremely and unusually heavy rain possibly attracting this exemption. With the present wording, Hunter Water could arguably claim this exemption if there was only a slight shower, which should not ordinarily result in a wastewater overflow.

EWON suggests that if Hunter Water wants to claim this exemption, to avoid ambiguity the definition of dry and wet weather should be expressed in terms of a certain measured amount of rainfall in the affected area.

EWON notes the clarifying phrase "not including shaft breaks", and that this is in line with the proposed changes to the repair and maintenance responsibilities covered in more detail in section 3.3 below.

⁶ Sydney Water Customer Contract 2010 – 2015: clause 7.3

3.2 *Additional protections for customers*

9. Should Hunter Water's Customer Contract include similar protections for its customers as provided to Sydney Water's customers in relation to disconnection procedures, features of payment plans and protections for residential customers experiencing financial hardship?

Payment difficulties

The new clause 5.1 covering payment difficulties and account relief appears comprehensive, and is expressed in clear plain English.

One other issue concerning payments is that Hunter Water has to date not made Centrepay available to its customer receiving a Centrelink benefit. Centrepay has proved to be of enormous assistance to customers who are struggling to budget for their utility bills, as it deducts agreed amounts from their fortnightly Centrelink payment before they receive it. EWON considers that making this additional payment method available would be of significant benefit to customers experiencing payment difficulties.

Restriction or disconnection

There are several significant differences between Hunter Water's proposed draft contract and Sydney Water's current contract regarding the protections aimed at customers avoiding disconnection or restriction.

The notice provisions in Hunter Water's draft clause 6.2 only require one *Reminder Notice* to be sent to customers before Hunter Water can commence recovery action which may lead to restriction.

By comparison, Sydney Water is required to give its customers a *Reminder Notice*, followed by a *Disconnection Notice* giving a further seven days to pay the account. Restriction can then only occur after there has been an attempt to make further contact by means of a telephone call, mail or visit. In addition, their customers are specifically protected from restriction or disconnection if they have applied for assistance under a payment plan, or have notified Sydney Water that they have sought assistance from a welfare agency.

We note that Hunter Water's draft contract makes reference to their *Code of Practice and Procedure on Debt and Disconnection*, which is available on their web-site.⁷ Needing to refer to this external document to interpret this section of the contract is not helpful. It would assist a clear reading of this section if the relevant provisions of the *Code* were included in the contract.

In addition to the provisions in the draft contract relating to the *Reminder Notice*, the *Code* also provides for a *Final Notice* if payment is not received in 7 days. There is no requirement for any further attempt at personal contact.

One other significant difference is that Sydney Water's clause 6.2 requires the *Reminder Notice* to advise the customer of their right to contact the 'water industry ombudsman'. Hunter Water's draft clause 6.2 makes no reference to the ombudsman, although we note it is included in the above *Code*. We suggest that the requirement to include EWON's contact details should be embedded into the customer contract.

In the current financial climate, where there have already been significant price increases in electricity and gas tariffs, many customers are struggling to pay their utility bills. EWON supports procedures that encourage customers to engage with their supplier to negotiate an affordable payment arrangement, or to seek financial assistance from a range of sources in the community. The requirement for a personal contact, and a referral to EWON, are vital steps in facilitating this engagement, which can help those customers avoid disconnection.

EWON supports the adoption of the notice procedures and specific protections against disconnection or restriction from the Sydney Water contract into the standard customer contracts for all water providers in NSW, in the same way as they are a requirement for energy suppliers. We consider this can make a significant difference to customers in hardship.

10 Should IPART review Clause 5.3 of Hunter Water's Operating Licence together with its Customer Contract or wait until the end of term review of the Operating Licence in 2011?

EWON supports a review of Clause 5.3 of the Operating Licence at the same time as this review of the Customer Contract, to enable the full suite of customer hardship protections to be made available to Hunter Water customers.

⁷ <http://www.hunterwater.com.au/files/code-debt-disconnection.pdf>

3.3 Clarification of maintenance responsibilities

11. Are Hunter Water's proposed amendments to clarify responsibility for maintenance reasonable?

Our experience of investigating customer complaints regarding repair and maintenance responsibilities confirms that the wording of clause 8 in the existing contract can cause confusion to both customers and EWON staff. We therefore welcome the efforts made to clarify this wording, and the provision of the accompanying diagrams to assist interpretation.

On the specific provisions we have the following suggestions:

- **Clause 8.1: Your water system**
Figure 3 clearly demonstrates the respective responsibilities for a standard installation when the meter is within one metre of the boundary. As the accompanying text refers to the difference if it is located more than one metre inside, we suggest that it could be useful to provide an additional illustration of that situation, to make the repair responsibilities perfectly clear.
- **Clause 8.2: Your wastewater system**
We note that this clause represents a substantial change from Hunter Water's current contract, in which Hunter Water agrees 'as a service to you' to repair the sewer inspection shaft and the pipe-work between the shaft and the sewer main. The illustration in Figure 1 makes it clear that the repair of the inspection shaft is now to be the customer's responsibility. It is not clear from Hunter Water's submission whether this significant change was canvassed as part of their customer survey.

The new wording appears to be in line with the provision in Sydney Water's contract, which provides that the customer is responsible for maintaining all the 'wastewater pipes and fittings between your property and the connection with our wastewater system'.⁸ While the

⁸ Sydney Water Customer Contract 2010 – 2015: clause 8.2

change may therefore be in line with industry practice, such a change in policy regarding who is responsible for clearing blocked inspection shafts will need to be clearly communicated to Hunter Water's customer base, and to plumbers within their area, as customers will often consult their plumber for advice when a problem occurs. A period of transition could be relevant while the new policy is communicated to all affected parties.

The additional definition of '*point of connection (wastewater)*' in clause 15 attempts to provide further assistance in interpreting the wording used in clause 8.2.

From a plain English point of view, we suggest that this definition would benefit from a further review. In particular:

- it is problematic to define a '*point*' as '*the extent*'
- the wording '*toward to property*' is not clear
- the use of the words '*usually*' and '*may be*' introduces an element of uncertainty into these definitions
- there is a reference to '*the junction on the top of a riser*', but there is no illustration of a riser in Figure 1.

As this definition covers a number of scenarios – where the main is either inside or outside the property, and where the junction might be located on the wastewater main or on the top of a riser - we suggest it would be helpful to provide additional illustrations to cover these scenarios.

EWON Investigations officers regularly need to discuss the terms of clause 8 with customers in the course of investigating their complaints about the responsibility for repair and maintenance to any part of the wastewater system between the house and the main. It would be extremely helpful to have as much clarity as possible around the definition of the point of connection.

- **Clause 8.3: *Pressure wastewater system connections***

This clause states: '*we will repair and maintain up to and including the boundary kit*', which according to Figure 2, appears to mean that the only part of the installation they will actually maintain is the boundary kit. A clear definition of 'boundary kit' would be helpful.

- The illustration of the boundary kit in Figure 2 falls in the ‘no-man’s land’ between the two arrows representing ‘your’ and ‘our’ maintenance responsibilities. Figure 2 may be a little clearer if the wording ‘Boundary Kit’ was located on the right hand side of the diagram, making clear it is Hunter Water’s responsibility.

Sydney Water’s contract provides that Sydney Water is also responsible for maintaining the collection tank and pump.⁹ If this is accepted industry practice in Sydney Water’s network area, we query why the same responsibilities do not apply for Hunter Water.

We also note that the equivalent clause in Sydney Water’s contract specifies the responsibility for the maintenance of the electrical circuitry between the meter and the control panel, and between the control panel and the sewer collection tank. The current draft of the Hunter Water contract however makes no reference to the electrical circuitry, and there is also no reference to any circuitry in Figure 2.

We note that customers are encouraged to contact Hunter Water to ‘confirm your system maintenance responsibilities’, and we appreciate that this may have been a time and space saving device to avoid a lengthy clause outlining the different responsibilities for the two different types of pressure systems. For the sake of transparency however, it would normally be preferable for these responsibilities to be clearly outlined in the Customer Contract.

12. Are Hunter Water’s proposed amendments to clarify liability for repair and restoration reasonable?

EWON welcomes the proposed changes to clauses 8.6 on stormwater connections, coverings and bridges, 8.8 on defective or unauthorised work, and 8.10 on building, landscaping and other construction work. These all help to clarify the responsibilities of customers within their own properties.

Linking the provisions of clause 9.4 relating to possible compensation for damage caused by Hunter Water when on a customer’s property to clause 8.10, now makes it clear that any obligation to compensate will be limited if any construction on the customer’s property was non-compliant.

⁹ Sydney Water Customer Contract 2010 – 2015: clause 8.3

This is in line with the provisions of Division 2 of the *Hunter Water Act*, and expressing this clearly in the Customer Contract should assist in resolving complaints in this area.

13 Are Hunter Water's proposed amendments to the Customer Contract reasonable to address issues arising from plumbing regulation changes?

We note that the proposed additions to the contract are in anticipation of the change in responsibility for plumbing standards from Hunter Water to NSW Fair Trading.

14 Do stakeholders have any further comments on Hunter Water's proposed Customer Contract or other issues that should be considered as part of a review of the Customer Contract?

Clause 4.4.5: Overdue account balances

EWON queries the insertion of the term '*at our discretion*' in relation to the charging of interest on overdue accounts. Clause 5.1 already clearly states that Hunter Water '*will*' waive interest on the overdue amount for customers on payment arrangement, so the discretion does not apply to them. In our opinion, the use of the word '*may*' already suggests that the application of interest is not a mandatory process. The addition of the term '*at our discretion*' could suggest that not all customers will be treated equally, which we suggest is not helpful. We note the term is not used in the equivalent section in Sydney Water's contract, so we query its use here.

Clause 4.5: Undercharging

Similarly we query the insertion of the term '*at our discretion*' in relation to adjusting accounts in the next billing period following an undercharge. We consider the term '*may*' already provides Hunter Water with the flexibility which may be intended here regarding this process. The emphasis on the use of discretion in the case of individual customers may suggest an element of arbitrariness which we assume is not the intention.

Clause 10.3: Meter testing

The current wording of this section uses a benchmark for a meter being faulty as when '*the meter is over recording, by more than three per cent*'. The proposed new draft contract deletes this clear percentage figure, and instead uses the term '*in accordance with the relevant Australian Standard*'.

EWON believes this change is not helpful to customers. Very few customers have access to the 'relevant *Australian Standard*', and to remove the clear and easily understood numerical benchmark goes against the trend towards clear and unambiguous language that has been a welcome feature of most of the other proposed changes to this contract.

EWON is not aware that the Australian Standard AS3565 is expected to change in the near future. If it is, the change to this generic wording could perhaps be understandable, in which case there should perhaps be a requirement that any such change should be clearly communicated to all account holders. If the *Standard* is expected to be long-standing, we see no reason to use this generic terminology that obscures the definition of what constitutes a meter fault.

We note that the Sydney Water contract continues to use the 3% figure, and EWON would like to see the numerical figure restored to the Hunter Water contract.

If you would like to discuss this matter further, please contact me or Prue McLennan, Investigations Policy Officer on 82185250.

Yours sincerely



Clare Petre
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