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26 July 2023

Dear Ms McKeown,

**Submission to the Essential Services Commission of South Australia (Commission)  
Issues Paper: SA Water Regulatory Determination 2024 –  
Water Retail Code and Monitoring and Evaluating Performance Framework**

The Energy and Water Ombudsman (SA) Limited (EWOSA) welcomes the opportunity to submit on the Commission's Issues Paper.

EWOSA is the independent energy and water ombudsman scheme in South Australia. It receives, investigates and facilitates the resolution of complaints by customers with regard to (*inter alia*) the connection, supply or sale of electricity, gas or water.

The Water Retail Code (Code) provides important protections for customers of SA Water, particularly regarding customer information, customer service, connections and retailer supply, as well as the essential customer protection of access to a free, independent and fair external dispute resolution service. The minimum service standards are a vital component of the Code.

The Monitoring and Evaluating Performance Framework (MEPF) is an important part of ensuring that SA Water complies with the Code and provides visibility to stakeholders on this compliance. The MEPF also provides requirements on reporting expenditure and revenue outcomes, as well as key investment areas and planning, which are important for customers and consumer groups in determining whether consumers are getting value for money in their water and sewerage services.

Minimum service standards

EWOSA believes the service standards address the service areas and service levels that water customers value and that the adjustments made as part of the SA Water Regulatory Determination 2020-24 (SAWRD20) have been useful.

Complaints received by EWOSA about SA Water totalled 355 in 2021-22 and almost 400 in 2022-23. The highest number of complaints are associated with billing issues, with high bills being of greatest concern.

Of importance to the minimum service standards are complaints to EWOSA associated with customer service, the provision of connections and supply issues, such as water leakages, interruptions and sewerage blockages or overflows. These are shown in the table below. As can be seen, these complaints are low, although some of the issues can be serious for the customers affected, particularly those involving water leakages or sewerage overflow problems.

Issue	2021-22	2022-23
Customer service (failure to respond)	2	6
Provision of connections	15	26
Water leakages	23	26
Unplanned water supply interruptions	3	3
Sewerage blockage or overflow	16	11

The low levels of complaints received by EWOSA reflect SA Water's ability to achieve the majority of the minimum service standards outlined in the Code. It is important to note that the rise in complaints about the provision of connections in 2022-23 coincides with the River Murray flood event. SA Water states in its Quarterly Performance Measures Report for the third quarter of 2022-23<sup>1</sup>, that the River Murray flood event created operational challenges that required reprioritising resources and that some connections took longer than the target timeframes as a result.

EWOSA generally supports maintaining the current minimum service standards, with the minor adjustments proposed by SA Water in their Regulatory Business Plan, such as accounting for travel times in regional areas and customer requests when responding to sewer overflows and providing wastewater cleanups, including in metropolitan areas.

However, EWOSA believes that two possible changes could be considered:

For Service Standard 5: Complaint Escalation, that the target be reduced from <15% to <10% for customer and community complaints escalated to EWOSA, following dissatisfaction with SA Water's complaint response. While this probably wouldn't have any material effect on the achievement of this target by SA Water, given that SA Water has achieved the existing target easily over the first three years of the 2020-24 regulatory period (7%, 6% and 6%), it would provide greater assurance to customers that their complaints are likely to be dealt with fairly and efficiently by SA Water.

For Service Standard 22: Sewer Overflow Clean-up Timeliness – Regional Areas, that the target be split into regional and remote areas, with different performance targets applying to both. Remote areas could be defined as those regions that are a significant distance from SA Water workshops. This would provide SA Water with a greater ability to meet the targets in a way that was still safe to their workers, the impacted customers and the broader community, without requiring unreasonable additional capital and operating expenses that would raise water prices for all customers.

#### Consumer protections for tenants

EWOSA supported the Commission in SAWRD20 replacing references to 'tenants' in the Code with references to 'consumers', to extend many customer protections to tenants and improve consistency with the *Water Industry Act 2012* (WI Act) and regulations under the WI Act. This was important in providing some access for tenants to the external dispute resolution services of EWOSA.

<sup>1</sup> SA Water, [https://www.sawater.com.au/\\_data/assets/pdf\\_file/0006/720177/Regulatory-report\\_2022-23\\_quarterly-Q3.pdf](https://www.sawater.com.au/_data/assets/pdf_file/0006/720177/Regulatory-report_2022-23_quarterly-Q3.pdf)

However, even with the change, tenants are unable to access the external dispute resolution services of EWOSA in some circumstances. These relate to billing and hardship complaints and result from the fact that SA Water does not have a direct relationship with consumers in the case of tenants.

While EWOSA believes that the Commission's decision in the SAWRD20 to await the completion of the State Government's review of the WI Act, before deciding on any further substantive Code amendments, was the correct one, we are concerned by the length of time the review of the WI Act is taking. The implications of this for the ability of tenants to fully access the services of EWOSA, as well as payment difficulty and hardship provisions in the Code, is a serious issue and is contrary to the intent of the regulations. Therefore, we would encourage the Commission to further investigate possible ways to make changes to the Code that would extend these important provisions to tenants, while at the same time not being inconsistent with the current WI Act.

There are also broader issues regarding water billing for tenants, particularly information provision to tenants, such as the water bills themselves in some cases and the difficulties of the three-way relationship between SA Water, landlords and tenants. Sometimes the relationship is four-way, with the involvement of strata operators and/or their agents, which can complicate the situation for tenants even further. EWOSA notes that the current review of the *Residential Tenancies Act 1995*, as well as the previously alluded to review of the WI Act, may assist in resolving some of these issues.

#### Family violence provisions

EWOSA supports the inclusion of family violence provisions in the Code, given the importance of SA Water in providing an essential service and the potential for family violence to be perpetrated through the exploitation of the need for such services.

In September 2022, the Australian Energy Market Commission (AEMC) made a preferable final retail rule to address family violence issues and vulnerabilities in the energy sector<sup>2</sup>. With the many similarities between energy and water as essential services, EWOSA believes that the inclusion of similar requirements in the Code would enable SA Water to provide targeted, practical assistance and support to customers affected by family violence.

Some of the main aspects of the AEMC's final rule include:

- Broadly defined relationships to provide wide customer coverage and protections.
- Requiring retailers to publish family violence policies.
- Requiring retailers to prioritise affected customer safety and protect their personal information.
- Requiring retailers to consider the financial impacts on affected customers of payment plans and debt recovery actions.
- Protections that ensure affected customers are not required to provide documentary evidence to receive support or must repeatedly disclose details of their family violence experiences.

Also in September 2022, the Essential Services Commission of Victoria released Water Industry Standards that include family violence provisions<sup>3</sup>. These are contained in Box 1 on the following page.

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<sup>2</sup> Australian Energy Market Commission, <https://www.aemc.gov.au/rule-changes/protecting-customers-affected-family-violence>

<sup>3</sup> Essential Services Commission (Victoria), <https://www.esc.vic.gov.au/water/industry-standards-codes-and-guidelines/water-industry-standards>

Box 1

A water business must have and implement a family violence policy. The policy must:

(a) provide that all relevant staff have ongoing training to:

- (i) identify customers affected by family violence;
- (ii) deal appropriately with customers affected by family violence; and
- (iii) apply the water business' family violence policy and related policies and procedures to customers affected by family violence;

(b) identify the support the water business will provide to staff affected by family violence, including any training, leave, external referrals and counselling available;

(c) promote customer safety by providing for the secure handling of information about those who are affected by family violence, including in a manner that maintains confidentiality;

(d) specify the water business' approach to debt management and recovery where a customer is affected by family violence, including but not limited to:

- (i) the recovery of debt from customers with joint accounts; and
- (ii) the circumstances in which debt will be suspended or waived;

(e) recognise family violence as a potential cause of payment difficulties and as an eligibility criterion for access to the water business' customer support policy ... and address what payment support will apply to customers affected by family violence;

(f) provide for a process that avoids customers having to repeat disclosure of their family violence, and provides for continuity of service; and

(g) provide a means for referring customers who may be affected by family violence to specialist family violence services.

A water business must:

(h) publish on its website, and keep up to date, the assistance and referrals available to customers affected by family violence and how customers may access such assistance;

(i) provide a copy of the family violence policy to a customer upon request; and

(j) provide for a periodic review mechanism of the policy and its associated procedures.

EWOSA supports the inclusion of such provisions in the Code, as part of a requirement for SA Water to develop a family violence policy. While there would be additional costs for SA Water in complying with some of the provisions, including staff training, the benefits to affected customers would be substantial and potentially even life-saving.

#### Monitoring and evaluating performance framework

EWOSA notes that the MEPP represents a significant shift in the reporting of SA Water's performance and the provision of information regarding key investment areas and long term asset planning. As a result, this reporting may require a few iterations to meet the expectations and requirements of all stakeholders.

EWOSA has found SA Water's public reporting of its performance to be informative and useful. There is generally a good balance in terms of detail. A direct example of EWOSA using the SA Water's public reporting was alluded to above, where information provided in the Quarterly Performance Measures Report for the third quarter of 2022-23 provided a probable explanation as to why complaints to EWOSA about the provision of connections by SA Water increased in 2022-23.

However, there are a few ways in which EWOSA believes there could be improvements in reporting the Quarterly Performance Measures:

- A brief single page executive summary with half a dozen key points, such as the proportion of service standards achieved, highlighting any that have not been achieved and any major changes in hardship indicators.

- More indicators on the Customer Assist Program, such as the number of residential customers that exit without successfully completing the program and the average levels of debt when customers both enter and exit the program.
- The provision of time series information, perhaps in the form of charts that are easy to view and understand whether service standard targets have been achieved or not. Time series data would also be useful for showing trends in hardship indicators. This would become more meaningful over time as more data is collected.

If family violence provisions and additional protections for tenants are included in the Code, EWOSA would also like to see indicators for these issues reported on in SA Water's Quarterly Performance Measures Report.

Regarding the Annual Performance Reports, EWOSA would also like to see time series for some measures in future, such as the "Healthy communities" and "Proactive environmental leadership" indicators. Trends are very important for stakeholders to observe SA Water's performance over time.

The Key Investment Areas report and 30 Year Asset Plan report will be very important for stakeholders when they consider SA Water's full Regulatory Business Proposal in the coming months.

With the MEPF in place, EWOSA does not believe that the Commission should provide regular reporting on the performance of SA Water. This would most likely result in higher costs for the Commission without much benefit in terms of information. However, where a service standard has not been achieved and best endeavours have not been applied or there is a compliance issue, we believe the Commission could release a statement which contains an independent assessment of what has occurred. This would provide stakeholders with an assurance that SA Water is being monitored and enforcement is being applied by the Commission when needed.

Thank you for consideration of this submission. Should you require further information or have any enquiries regarding this submission, please contact me at [antony.clarke@ewosa.com.au](mailto:antony.clarke@ewosa.com.au) or on (08) 8216 1861.

Yours sincerely



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