

31 July 2023

Mr Adam Wilson
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Dear Mr Wilson,

RE: SA Water Regulatory Determination 2024 – Water Retail Code and Monitoring and Evaluating Performance Framework

As the peak body for the non-government, not-for-profit health and community services sector in South Australia, the South Australian Council of Social Service (**SACOSS**) has an established history of interest, engagement and provision of advice on the necessary market mechanisms and policy for essential services, including water. It has been well documented by SACOSS and others that the cost and supply of basic necessities like water have significant and disproportionately greater impacts on low-income households and people in vulnerable circumstances. SACOSS' advocacy is informed by our members and direct consultations with consumers and other consumer organisations; organisations and individuals who witness and experience these impacts in our community.

SACOSS would like to thank the Essential Services Commission of South Australia (**ESCOSA**) for the opportunity to provide our views on the review of the *Water Retail Code –Major Retailers WRC-MR/03 (the Code)* and the *SA Water Monitoring and Evaluating Performance Framework (the MEPF)*. The Code sets out the consumer protections (both behavioural standards and minimum requirements) that apply to the sale and supply of water and sewerage services by SA Water, and the MEPF establishes the reporting requirements and regulatory expectations that apply to SA Water. Both the Code and the MEPF are of central importance in protecting and shining a light on the experience of South Australian water consumers on low-incomes, experiencing disadvantage or in vulnerable circumstances.

ESCOSA's *SAWRD 24 Retail Code and Monitoring and Evaluating Performance Framework Review Issues Paper*, dated June 2023¹ (the Issues Paper) is seeking feedback on:

- the implementation of the amendments made to the Code as part of SA Water's Regulatory Determination 2020 (SAWRD20)
- the sufficiency of the minimum service standards within the Code

¹ ESCOSA, [SAWRD 24 Retail Code and Monitoring and Evaluating Performance Framework Review Issues Paper](#), dated June 2023

- possible improvements to consumer protections for tenants established by the Code, within the existing legislative framework
- the inclusion of family violence provisions within the consumer protections under the Code
- the use, publication and communication of performance outcomes by SA Water in accordance with the MEPF
- any gaps or areas for improvement under the MEPF.

SACOSS will focus this submission on providing feedback on improvements to consumer protections for tenants, family violence provisions and any gaps or areas for improvement under the MEPF. In summary, **SACOSS strongly submits that:**

- the definition of ‘residential customer’ under the Code should align with the definition under section 37(5) of the *Water Industry Act*
- the words ‘or consumer’ should be included in specific clauses dealing with hardship and payment plans under the Code, as well as extended to protections dealing with restriction, processes for restriction, dispute resolution and Ombudsman Schemes as established under the *Water Industry Act* and Regulation 4
- at the very least, ESCOSA includes ‘or consumer’ in provisions of the Code dealing with the protections established under the *Water Industry Act* and extended to consumers in prescribed circumstances under Regulation 4 (as set out in the submission)
- ESCOSA should specifically and clearly identify the Clauses which apply to both customers and consumers under the Code
- Clause 26 of the Code should be amended to include a prohibition on restricting water services where the customer is complying with a payment plan
- the benefits of introducing family violence consumer protections significantly outweigh any capital or operating costs associated with implementing those protections, and we are seeking ESCOSA introduce family violence protections along with appropriate monitoring and reporting requirements to ensure compliance
- stakeholders would benefit from an analysis and summary of the reported MEPF data (both quarterly and annual) by ESCOSA with a focus on implications for consumers, published on an annual basis
- additional performance indicators relating to payment difficulty and debt (including payment plans covered by Clause 25 of the Code) should be included in MEPF to provide a clearer picture of residential customers’ experience, and SA Water’s compliance with its consumer protection obligations under the Code (as set out in the submission)
- at the very least, identified metrics set out in the submission should be included in *Guideline No. 2*
- SA Water publish a combined Annual Report containing annual performance data and quarterly performance data
- ESCOSA investigate SA Water’s compliance with payment plan obligations under the Code and MEPF.

Consumer Protections for Tenants

Questions for stakeholders

- ▶ Given the existing legislative framework, how could the consumer protections for tenants established by the Code be improved?

SACOSS refers ESCOSA to our submission on the previous review of the Water Retail Code in August 2019.² In that submission, we called for ESCOSA to align the definition of ‘customer’, ‘consumer’ and ‘residential customer’ under the *Water Industry Act 2012*³ (WI Act) with the definitions under the Code. We also submitted that the body of the Code should be amended to specifically identify the application of relevant clauses to either the ‘customer’, ‘consumer’ or ‘residential customer’, where appropriate.

In the previous Code, both the words **customer** and **residential customer** appeared in bold. However, only ‘**residential customer**’ was defined under the clause 1.8.1 to mean:

‘a customer which acquires retail services primarily for domestic purposes’

The Code was amended to include definitions of ‘customer’ and ‘consumer’ in alignment with Section 4(1) of the WI Act, but the definition of ‘residential customer’ was not amended to align with section 37(5).

Section 4(1) defines ‘customer’ and ‘consumer’ to mean:

‘customer means a person who owns land in relation to which a retail service is provided and includes—

- (a) where the context requires, a person seeking the provision of a retail service; and*
- (b) in prescribed circumstances—a person supplied with retail services as a consumer or user of those services (without limiting the application of this definition to owners of land); and*
- (c) a person of a class declared by the regulations to be customers’.*

‘consumer means a person supplied with retail services as a consumer or user of those services’

It is clear the definition of ‘consumer’ under the Act includes tenants of premises who are supplied with retail services as the user of those services.⁴

Section 37 of the WI Act deals with Customer Hardship Policies. Section 37(5) provides that:

‘In this section-

‘residential customer means a customer or consumer who is supplied with retail services for use at residential premises’.

As acknowledged in the Issues Paper, it is clear the intention of the WI Act is that both ‘customers’ and ‘consumers’ (tenants) are afforded the protections and supports provided for under the Minister’s

² SACOSS, [Submission on the consumer experts panel background briefing: Review of the Water Retail Code Major Retailers](#), 30 August 2019

³ [Water Industry Act 2012](#)

⁴ See the second reading speech on the Water Industry Act Bill, where the Hon. M. PARNELL stated: ‘In relation to tenancies, the legislation needs to better define the relationship between customers and consumers, because these two words are effectively a proxy for landlord and tenant’.

<http://hansardpublic.parliament.sa.gov.au/Pages/HansardResult.aspx#/docid/HANSARD-10-8490>

Residential Customer Hardship Policy.⁵ Notably, and as previously submitted, section 37(4) of the WI Act provides that 'it will be a condition of a water industry entity's licence that it complies with the customer hardship policy applying in relation to the entity under subsection (3)'. We therefore consider that SA Water could be in breach of its licence if it fails to identify hardship customers who are tenants, and offer hardship supports to those tenants ('consumers') in accordance with the requirements under the Policy.

It is also clear that together, sections 4(2), 4(3), 25(1)(b)(iii) and (iv), 25(1)(g), 25(1)(h) of the WI Act and Regulation 4 of the *Water Industry Regulations 2012*⁶ specifically require that certain protections under the Code are extended to tenants. Under the Code there must be:

- limitations on the grounds on which the supply of designated services for tenants / consumers may be discontinued or disconnected (restricted)
- certain processes to be followed prior to the disconnection (restriction) of tenants / consumers,
- specified process to be followed to resolve disputes between the water industry entity and the tenant / consumer
- access to ombudsman schemes for tenants / consumers.

Currently, the Code does not extend any of the above specified protections to 'consumers'. SACOSS strongly submits that, at the very least, ESCOSA includes 'or consumer' in provisions of the Code dealing with the protections established under the Act and extended to consumers. We set out those clauses in more detail, below.

Further, SACOSS submits that under the current legislative framework it would make sense to align the application of the hardship customer provisions under the Code, with the application of the Minister's Hardship Policy and licence conditions. Currently, the customer communication obligations relating to Customer Hardship Policies under the Code only apply to 'residential customers' as defined under the Code, which does not include 'consumers'. This is inconsistent with the hardship obligations under the WI Act and SA Water's corresponding licence conditions.

SACOSS repeats our submission that the definition of 'residential customer' under the Code should align with the definition under section 37(5). We do not consider it is feasible to separate the hardship obligations under the WI Act and Minister's Hardship Policy, from the hardship obligations under the Code.

That said, in the event that ESCOSA determines not to amend the definition of 'residential customer' to align with section 37(5), we strongly submit the words 'or consumer' should be included in specific clauses dealing with hardship and payment plans, as well as the extension of protections dealing with restriction, processes for restriction, dispute resolution and Ombudsman Schemes as established under the WI Act and Regulation 4. Currently, the Code includes 'consumers' within the application of the following clauses:

- Clause 2.3 – Obligation to provide Customer Charter
- Clause 8.1 – Advice on government concessions, rebates or grants
- Clause 9 – Life Support Equipment
- Clause 18 – Historical Billing Data
- Clause 26.2(d) – prohibitions on water service flow restrictions for life-support customers
- Clause 26.2(g) – prohibition on water service flow restrictions for residential consumers where billing data requirements are satisfied under Clause 18.11.4
- Clause 26.2.2 – prohibition on water service flow restriction for **non-residential** tenants (consumers).

⁵ [Minister's Residential Customer Hardship Policy](#)

⁶ [Water Industry Regulations 2012](#)

SACOSS strongly submits 'or consumer' should be included in the following clauses of the Code:

- Clause 3 – Enquiries, complaints and dispute resolution
- Clause 6 – Water efficiency advice (aligns with Minister's Hardship Policy)
- Clause 10 – Customer Hardship Policies
- Clause 20 – Billing disputes (and specifically Clause 20.3.2 on information relating to access to Ombudsman schemes)
- Clause 23.2 – Payment by Centrepay
- Clause 25 – Payment difficulties and flexible payment plans
- Clause 26 – Restriction of water supply⁷ (noting prohibitions and procedures to be followed prior to the restriction of the water supply should apply to consumers)
- Clause 27 – Disconnections
- Clause 28.2 – Waiver of reconnection fee for Hardship Customer

Relevantly, as previously submitted, in the event ESCOSA determines that consumers are included in the above Clauses, we consider ESCOSA should specifically and clearly identify the Clauses which apply to both customers and consumers. For example, Clause 26 in the Code which deals with 'Restriction of Water supply' could have an initial clause about the application of the clauses dealing with water restriction. The clause could state: **'This clause applies to customers and consumers'**.⁸ Similarly, Clause 3 which deals with dispute resolution and clause 20 which deals with billing disputes, could specifically state that the protections and access to ombudsman schemes extends to 'consumers'.

In addition, and as noted in our previous submission, we believe customers who are complying with a payment plan should be afforded protection from restriction. We repeat our recommendation that Clause 26 of the Code should be amended to include a prohibition on restricting water services where the customer is complying with a payment plan.⁹ Provisions of the Code dealing with payment difficulty (including payment plans), are essential to early intervention and prevention from further debt and restriction.

We would welcome the opportunity to further discuss these submissions with ESCOSA.

Family Violence provisions

Questions for stakeholders

- ▶ What data, statistics and case studies are available on the impact of family violence on access to essential services in South Australia?
- ▶ What provisions could be added to the Code to better support people experiencing family violence?
- ▶ What are the costs and benefits of introducing additional consumer protections for customers experiencing family violence? What data and evidence are available to support consideration of costs and benefits?

SACOSS strongly supports the inclusion of Family Violence provisions within the Code.

⁷ While section 25(1)(b) refers to 'disconnection', SACOSS submits the language used in the WI Act is based on energy legislation and that water 'restriction' is the equivalent of disconnection in energy. We consider the review of the WI Act should look into the language used ensuring it is applicable to water services. We believe the context of the relevant disconnection provisions in the legislation support an interpretation that disconnection is interchangeable with restriction.

⁸ Where 'residential customers' is defined in the Code in accordance with section 37(5) of the WI Act, and 'customer' and 'consumer' are defined in accordance with section 4 of the WI Act.

⁹ See: Urbis Pty Ltd, Restricted Water Customer Research Report, prepared for SACOSS, October 2017, p.iii

From 1 May this year, energy retailers in South Australia have been required to comply with new family violence obligations under the *National Energy Retail Rules*¹⁰ to protect residential and small business customers affected by family violence from harm. SACOSS refers ESCOSA to the joint PIAC submission¹¹ made to the Australian Energy Market Commissions (AEMC's) Family Violence Rule Change Process, and to the AER's Interim Guidance Note¹² which outlines the background, the importance of family violence protections in the provision of essential services, and retailers' obligations. As noted in the Guidance note, one in four Australian women and around one in thirteen men have experienced violence by a current or previous intimate partner.¹³ The AER has provided the following examples of exploitation of essential services by perpetrators of family violence, and SACOSS considers these risks to customers affected by family violence are equally applicable to water, as to energy:¹⁴

- *using essential services to obtain personal information such as an affected customer's contact details and using these to locate or contact them*
- *forms of financial abuse such as controlling access to energy bills or refusing to contribute to their payment, leading to mounting debt and eventual disconnection, or*
- *pressuring affected customers to sign or agree to contracts or arrangements with energy retailers*

Following the Royal Commission into Family Violence in March 2016, the Essential Services Commission of Victoria (ESC Vic) introduced obligations under the *Water Industry Standards*¹⁵ to require water businesses to develop a family violence policy and provide assistance to customers and staff affected by family violence. The recently released a Findings Paper on ESC Vic's *Water Industry Standards Family Violence Provisions Review*¹⁶ found that the provisions were working well, but implementation varied across retailers, negatively impacting some customers. Family Violence provisions within the Code would apply to one retailer in South Australia, SA Water, meaning implementation including staff training, eligibility, communication and application of provisions could be more consistent, and more easily monitored.

SACOSS is firmly of the view that the benefits of introducing family violence consumer protections significantly outweigh any capital or operating costs associated with implementing those protections, and we are seeking ESCOSA introduce family violence protections along with appropriate monitoring and reporting requirements to ensure compliance.

Monitoring and Evaluating Performance Framework

Questions for stakeholders

- ▶ How is SA Water's public reporting being used?
- ▶ Does SA Water's public reporting meet the expectations and requirements of stakeholders?
- ▶ Please provide any observations of SA Water's communication of its performance outcomes?
- ▶ Are there any gaps or areas for improvement in the MEPF?

¹⁰ National Energy Retail Rules, Rules 76A – 76M

¹¹ PIAC, SACOSS, Good Shepherd, FRLC, ACTCOSS, TASCOS, [Submission to AEMC Draft Determination Protecting Customers Affected by Family Violence Rule Change](#), 4 August 2022

¹² AER, [Interim Guidance Note – Family Violence Rule](#), April 2023

¹³ Australian Bureau of Statistics (2017) Personal Safety, Australia 2016.

¹⁴ AER, [Interim Guidance Note – Family Violence Rule](#), April 2023, p.2

¹⁵ ESC Vic, [Water Industry Standard – Urban Customer Service](#), 27 September 2022

¹⁶ Essential Services Commission of Victoria, [Water Industry Standards Family Violence Provisions Review: Findings Paper](#), 20 July 2023

Annual Performance Reporting

SACOSS refers to our previous submission on the Monitoring and Evaluating Performance Framework from November 2020,¹⁷ where we strongly supported greater transparency and accountability in all areas of proposed investment, expenditure and revenue allowed in SAWRD20, including unscrutinised expenditure resulting from Ministerial Directions.¹⁸

The information contained in SA Water's 2020-24 Performance Report for Year 2 to 30 June 2022,¹⁹ is clearly presented and provides broad and useful insights into actual demand, customer growth, reliability, pricing, profits, revenue and actual vs. allowed expenditure. SACOSS is also pleased some of the less transparent costs to consumers are published in this document, including Water Planning and Management Costs – although we don't believe these costs accurately fall under the 'License Fee' heading.

Speaking broadly, we are very supportive of increased data collection and public reporting for water utilities and welcome the introduction of the additional reporting requirements under the MEPF. It is clear the data collected will become more useful as time goes on, and clear historical comparisons can be made.

That said, we consider stakeholders would further benefit from an analysis and summary of the reported MEPF data by ESCOSA with a focus on implications for consumers. Analysis of the data by an independent Regulator aware of the historical trends and able to draw inferences and identify patterns or areas for concern is extremely useful for stakeholders. Stakeholders would have high level of trust in ESCOSA's analysis, and would feel more confident in drawing conclusions based on ESCOSA's overview / summary of SA Water's Performance Reports and underlying data.

For example, SA Water's 2020-24 Performance Report identifies increased actual revenue for SA Water (over and above allowed revenue) between 2020-2022 of around \$57.6m (\$36.7m in 2020-21 and \$20.9m in 2021-22),²⁰ with actual capital expenditure \$190.6m below allowed expenditure for those two years (SA Water says due to rephrasing of works). What does this data mean for consumers? Where are the positive trends and the red flags? ESCOSA's independence and expertise makes it perfectly positioned to provide high-level analysis of all the data across categories for the benefit of consumers, this includes data on consumer protection obligations reported in the quarterly performance reports (as referred to below).

Quarterly Performance Reporting

Our November 2020 submission on the MEPF also called for assurances from ESCOSA that SA Water would be required to publicly report on the quarterly indicators contained within *OP 2.1 - Restrictions and legal action for non-payment* and *OP2.2 – Financial measures*, as part of the MEPF.²¹ We also repeated our call for the inclusion of additional indicators in Guideline No.2 relating to payment difficulty and debt,²² and have attached our Briefing Note previously provided to ESCOSA on suggested metrics for SA Water, dated 16 September 2020.

¹⁷ SACOSS, [Submission to ESCOSA on the SA Water Regulatory Determination: Monitoring and Evaluating Performance](#), 6 November 2020

¹⁸ See Directions K, M and N in [Direction to the South Australian Water Corporation Pursuant to Section 6 of the Public Corporations Act 1993](#)

¹⁹ SA Water, [2020-24 Performance Report, Year 2 to 30 June 2022](#)

²⁰ SA Water's explanation is that 'dry summer weather conditions' resulted in higher-than-forecast water use during these years, resulting in higher revenue. The demand forecast (194.0 billion litres in 2020-21 and 294.5 billion litres in 2021-22) and the actual volume of water supplied in 2020-21 and 2021-22 (205.1 and 206.6 billion litres respectively) are both published in the report, but without historical context.

²¹ SACOSS, [Submission to ESCOSA on the SA Water Regulatory Determination: Monitoring and Evaluating Performance](#), 6 November 2020, p. 3-4

²² SACOSS, Submission to ESCOSA on Submission on the Consumer Experts Panel Background Briefing: Review of the Water Retail Code –Major Retailers, 30 August 2019 - SACOSS has repeatedly called for an expansion of the performance reporting requirements relating to payment difficulty and debt in numerous submissions over several years including in our Priorities Report provided to SA Consumer Experts Panel Meeting 02/2018.

In response, ESCOSA's *Final Report on the Monitoring Evaluation Framework for SA Water* (the Final Report) noted that:²³

To alleviate SACOSS' concern that quarterly reporting on financial hardship indicators may be lost in this transition, the Commission confirms that it also expects SA Water to report on these measures as part of its quarterly reports.

*The Commission notes that SA Water has stated its intention to report on the total number of residential customers participating in a financial hardship program as at the end of the quarter under the banner of 'supporting you when you need a hand'. However, this lone indicator will not provide stakeholders with an understanding of any changing trends in the levels of customer debt over time, which is an important part of the wider context. **While the Commission is not proposing to extend the coverage of the current set of financial hardship indicators for 2021-22, there is likely to be benefit from SA Water working with stakeholders to further refine its reporting in this area during the trial period.***

In accordance with ESCOSA's Final Report, formal quarterly reporting by SA Water commenced in 2021-22, and included reporting on the indicators contained within *OP 2.1 - Restrictions and legal action for non-payment* and *OP2.2 – Financial measures*.²⁴ The first Quarterly Performance Measure Report published on the website included data from Q4 2021-22 and the Full Year 2021-22.²⁵ The most recent report relates to Q3 2022-23.²⁶ A comparison of the quarterly data from these reports reveals that:

- Average water bill debt for metro and regional hardship customers is extremely high - \$2,661.50 for metro hardship customers as at Q3 2022-23 (down \$200 from \$2,861 in Q4 2021-22), and \$4,323.86 for regional hardship customers as at Q3 2022-23.
- Average water bill debt for regional hardship customers has increased by \$438 in 9 months, from \$3,885 in Q4 2021-22 to \$4,323 in Q3 2022-23.
- The total number of SA Water hardship customers (and payment plan customers) increased by 14% in 9 months, from 840 in Q4 2021-22 to 960 in Q3 2022-23.
- The number of residential customers receiving a water concession has increased slightly from 123,279 in Q4 2021-22 to 124,953 in Q3, 2022-23.
- 14 residential customers had their water restricted for non-payment of a bill in 2021-22, with no customers facing water restrictions so far in the three quarters of 2022-23.

Confusingly, in three of the four published quarterly reports (excluding Q2, 2022-23) the number of residential customers on a payment plan is equal to the number of residential customers on a hardship program: 840 in Q4 2021-22, 850 in Q1, 2022-23 and 960 in Q3, 2022-23. The Payment plan indicator in OP 2.2 is a separate indicator to the hardship indicator, and relates to SA Water's obligations under Clause 25 of the Code.²⁷ The definition of 'flexible payment plan' under Guideline No. 2 clearly establishes that this does not include customer participating in a financial hardship program, a 'flexible payment plan' means:²⁸

an arrangement under which customers are given more time to pay a bill or to pay arrears (including any restriction, disconnection or restoration charges) in accordance with the Water Retail Code. For the avoidance of doubt it does not include:

²³ ESCOSA, [SAWRD20 Monitoring and Evaluation Framework Final Report](#), dated January 2021, p. 9

²⁴ See SA Water, [Regulatory Report 2022-23 quarterly, Q3](#), p.5-6

²⁵ SA Water, [Regulatory Report: Quarterly Performance Measures, quarter 4 and Full year 2021-22](#), p.5-6

²⁶ SA Water, [Regulatory Report: Quarterly Performance Measures 2022-23, Q3](#)

²⁷ ESCOSA, [Water Retail Code, Major Retailers](#), 1 July 2020, p. 36

²⁸ ESCOSA, [Water Regulatory Information Requirements – Major Retailers, Guideline No. 2](#), p.11

- a. customers participating in a financial hardship program
- b. arrangements with only 1 or 2 instalments, or
- c. short term payment extension (including extensions of time).

The alignment of hardship customer numbers with payment plan customer numbers in the reporting data suggests there may be some questions around SA Water’s compliance with both reporting requirements and applying the payment plan obligations contained in the Code. Under Clause 25 of the Code, **all** customers experiencing difficulty paying their bill (whether self-identified or identified by SA Water) should be offered a payment plan. In terms of identification by the retailer, SACOSS considers that evidence of water bill debt²⁹ should be sufficient to trigger a ‘belief’ in SA Water that a customer is experiencing payment difficulties, and therefore trigger the consequent obligation on SA Water (clause 25.1.1 of the Code) to contact that customer and offer a payment plan. These payment plan obligations are separate to hardship obligations, and are critical in ensuring South Australian water consumers are offered support early in the debt cycle, to avoid customers entering into entrenched debt or using credit or BNPL schemes to pay for an essential service.

The payment plan obligations under the Code are largely similar to those under the National Energy Retail Laws and Rules.³⁰ Recent performance data from Q3 2022-23 shows that there were 15,749 (or 2%) of South Australian energy customers on payment plans in Q3, and 16,202 (or 2.01%) of customers on a hardship program.

Notably, energy retailer’s compliance with payment plan obligations has been a focus of the Australian Energy Regulator over the last couple of years, and South Australian energy retailers have faced compliance action for breaches of payment plan obligations.³¹ There are numerous indicators in the AER’s *Retail Performance Reporting Procedures and Guidelines*³² relating to payment plans, providing essential insights into the experience of customers experiencing payment difficulty, but not part of a hardship program.

As part of this current review of the MEPF, SACOSS is once again calling for additional indicators relating to payment difficulty and debt (including payment plans covered by Clause 25 of the Code) to provide a clearer picture of residential customers’ experience, and SA Water’s compliance with its consumer protection obligations under the Code. We refer ESCOSA to the attached Briefing Note from September 2020 (Attachment A), and seek that, at the very least, the following be included in Guideline No. 2:

- A definition of ‘water bill debt’
- A definition of ‘successfully exiting the financial hardship program’
- Number of residential customers that have a water bill debt
- Average water bill debt of residential customers **not on a hardship program**
- Average water bill debt on entry to a hardship program
- Number of residential customers who had their payment plan cancelled for non-payment
- Number of residential customers with two or more payment plans cancelled in the last 12 months (relates to clause 25.1.3 in the Water Retail Code)
- Number of Residential customers who have been referred to an external credit collection agency for the purposes of debt recovery
- Number of residential customers using Centrepay.

²⁹ This should be easily accessible for SA Water through its billing department.

³⁰ See Division 7 - Payment Plans, under the [National Energy Retail Law 2011](#)

³¹ AER, [Compliance and Enforcement Priorities 2023-24](#), p.1 – see also [Federal Court Decision](#) penalising Origin for customer hardship and payment plan breaches by imposing a \$17m penalty.

³² AER, [\(Retail Law\) Performance Reporting Procedures and Guidelines](#), January 2019, see handling customers experiencing payment difficulties pp18-23

We note SA Water is publishing separate Annual Reports for quarterly performance data, and annual performance data. SACOSS considers it may be easier for stakeholders to access this information in one combined Annual Performance Report, and we would welcome this being done for the 2022-23 Annual Performance Report. This report should include all the quarterly data, with annual totals as well as annual data and comparisons with the previous years.

We thank you in advance for consideration of our comments. If you have any questions in relation to this submission, please contact Georgina Morris on georgina@sacoss.org.au or 08 8305 4214.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'R Toohar', is positioned above the typed name.

Dr Rebecca Toohar
Director of Policy and Advocacy
South Australian Council of Social Service

Attachment 'A'

SACOSS' Suggested metrics for SA Water

16 September 2020

As discussed in the CAG meeting on Wednesday, 9 September 2020, SACOSS has compiled some suggested metrics for SA Water. These suggestions were previously provided to ESCOSA in September 2018. SA Water could consider reporting voluntarily on these metrics, as the data would be useful in guiding customer assistance programs. SACOSS' suggestions cover the following reporting areas:

- customers experiencing payment difficulties
- restrictions,
- concessions, and
- hardship customers.

SACOSS considers it is important to report on metrics which are **not simply confined to hardship customers**, in order to provide a clearer picture of the affordability of water, the number of customers having trouble paying their bill and the broader supports being provided to customers by SA Water (including supports focussed on early intervention like payment plans).

For example, at the moment SA Water is only required to report on the *'Average amount of bill debt (all services combined) for residential customers participating in a financial hardship program as at the end of the quarter'*, there is no visibility of the number of customers experiencing debt, or the amount of debt, outside hardship programs. Hardship programs do not capture all customers experiencing payment difficulties, and therefore the current metrics do not provide a clear picture of the number of customers who may be having trouble paying their water bills.

The indicators (or metrics) outlined in this brief paper are suggested only. SACOSS is unclear about the information gathering systems currently used by SA Water and the level of data that is currently recorded, or can be easily accessed. In the event additional metrics would require SA Water to implement more sophisticated systems, then the benefit of obtaining the data should be weighed against the cost of implementing the systems. However, it may be the case that this information is readily available through existing debt recovery or customer management systems, but has just not been recorded.

The current metrics against which SA Water must report are contained in [Water Industry Guideline No. 2 – Regulatory Information Requirements for Major Retailers](#) (Guideline No. 2).

Definitions

Firstly, SACOSS believes a definition of 'water bill debt' should be included within the 'definition' section of Guideline No. 2. Currently, there is no definition of 'debt'.

Notably, the AER's [Performance Reporting Procedures and Guidelines](#), Version 3 defines 'energy bill debt' to mean:

Energy bill debt is defined in Schedule 3 of the Performance Reporting Guidelines as:

*‘the dollar amount owed to the retailer for the sale and supply of gas or electricity, excluding other services, which has been outstanding to the energy retailer for a period of 90 calendar days or more. An amount owing after the final bill has been issued by a retailer to a customer on termination of a customer contract (e.g. where a customer changes retailer) should not be counted as energy bill debt’.*³³

SACOSS believes that **‘water bill debt’** could similarly be defined as a **‘debt for the sale and supply of water which has been outstanding to the Major Retailer for a period of 90 days or more’**.

To give context to the suggested indicators detailed below, **‘Flexible Payment Plan’** is currently defined within Guideline No. 2 to mean:

‘flexible payment plan means an arrangement under which customers are given more time to pay a bill or to pay arrears (including any restriction, disconnection or restoration charges) in accordance with clause 24.1.1 of the Water Retail Code. For the avoidance of doubt it does not include:

- a. customers participating in a financial hardship program;*
- b. arrangements with only 1 or 2 instalments; or*
- c. short term payment extension (including extensions of time)’*

It’s worth noting that ‘Payment Difficulties and Flexible Payment Plans’ are now covered by clause 25 of the [Water Retail Code- Major Retailers](#), and this should be changed in Guideline No. 2 from clause 24.

It would be very useful to understand more about the customers covered by clause 25 of the Water Retail Code, and additional metrics would contribute to this understanding.

Suggested metrics relating to the handling of customers experiencing payment difficulties

To inform suggestions for SA Water’s metrics, SACOSS has drawn on the old and new indicators the Australian Energy Regulator (AER) requires energy retailers to report against.

Suggested Indicator for SA Water

- Number of residential customers using Centrepay
- Number of residential customers on a payment plan
- Number of residential customers who had their payment plan cancelled for non-payment
- Number of residential customers with two or more payment plans cancelled in the last 12 months (relates to clause 25.1.3 in the Water Retail Code).
- Number of residential customers who successfully completed their payment plan.
- **Number of residential customers that have water bill debt**
- **The total number of water customers (not on a hardship program) who have accrued a water bill debt as at the last calendar day of the reporting period:**
 - i. over \$1000 but less than \$1500 where the debt is more than 12 months old but less than 24*

³³ AER (Retail Law) Performance Reporting Procedures and Guidelines, Version 3, April 2018, p.18

- ii. over \$1000 but less than \$1500 where the debt is more than 24 months old but less than 24*
- iv. over \$1500 but less than \$2500 where the debt is more than 24 months old*
- v. over \$2500 where the debt is more than 12 months old but less than 24*
- vi. over \$2500 where the debt is more than 24 months old.*

(The intent of this particular indicator (above) is to provide an insight into how customers manage debt with the assistance of the retailer **outside of the hardship program**. The Energy and Water Ombudsman of NSW (EWON) supported the inclusion of this indicator in the AER's Procedures and Guidelines as it 'may encourage retailers to focus on more proactive management of customers with aged debt' and will also provide a 'breakdown to show the number of customers experiencing particular levels of debt'.³⁴ SACOSS agrees with EWON, and reiterates the importance of retailers offering early and effective assistance to customers experiencing payment difficulties before energy debt becomes unmanageable.

It may not be feasible for SA Water to provide a breakdown of amounts and age of the debt. Also, the amounts may have to be reduced to reflect more realistic water bill debt amounts. **If the breakdown of the debt is too difficult, then a simple indicator of the number of customers in debt would assist with understanding how well SA Water support customers to manage their debt, outside of the hardship program.)**

- **Number of Residential customers who have been referred to an external credit collection agency for the purposes of debt recovery**

(This indicator will assist with understanding what happens to customers who are unable to pay their bills. The AER stated that 'given the increasing levels of debt held by customers, increasing number of customers being excluded from participating in hardship programs, and the reported drop in customers successfully completing hardship programs, there is a need to understand the impact of customer credit collection activity by retailers'.³⁵

Similarly, in terms of water, an indicator (or metric) which requires SA Water to identify how many customers are referred for debt recovery action will provide a greater understanding of the level of impact of debt recovery on customers. It may be useful to break this metric down even further, to require SA Water to report on the number of customers who were on payment plans or hardship programs who were referred for debt collection, in addition to the number of customers not on payment plans or hardship programs who were referred for debt collection. This would shed some light on the effectiveness of the supports offered by SA Water to assist customers to repay their debt.)

- **Number of residential customers who have been referred to an external credit collection agency for the purposes of debt recovery – amount of debt**

³⁴ AER Final Instrument: Amendments to AER (Retail) Performance Reporting Procedures and Guidelines Version 3, April 2018, p.24

³⁵ AER, Notice of Draft Instrument: AER (Retail) Performance Reporting Procedures & Guidelines Version 3, December 2017, p.18

(This is a new AER indicator requiring retailers to submit the total number of **current or previous** residential customers during the (quarterly) reporting period who were referred to an external credit collection agency for the purposes of debt recovery, where the energy bill debt is:

- up to \$500*
- over \$500 but less than \$1500*
- over \$1500 but less than \$2500*
- over \$2500.*

The AER states that it is important to understand the level of debt at which customers are referred to an external credit agency for the purposes of debt recovery.³⁶ SACOSS supports this new indicator as the information provided will assist with gaining a greater understanding of the impact of energy debt on customers, and the practices of retailers in supporting customers experiencing payment difficulties.)

Suggested metrics relating to restriction

- The existing metric requiring SA Water to report on **the number of water restrictions applied for non-payment of water bill** should include the following categories of customers **in addition to hardship customers and customers receiving concessions**:
 - *non-residential customers*
 - *residential customers who have been on a payment plan in the previous 12 months*
 - *residential customers who have been restricted for non-payment on more than one occasion in the previous 24 months.*

This indicator will assist with providing further information on the manner in which retailers deal with customers experiencing water debt (a clear indicator of payment difficulties) but who are not on a hardship program, as detailed in the indicators discussed above.

- Change the existing metric to require SA Water to **provide information on the number of customers reconnected within 14 days for each of the following**:
 - i. residential customers*
 - ii. non-residential customers*
 - iii. hardship program customers*
 - iv. energy concession customers*
 - v. residential customers who have been on a payment plan in the previous 12 months*
 - vi. residential customers who have been disconnected for non-payment on more than one occasion in the previous 24 months.*
- **Total number of customers with debts at the time of restriction** – this indicator requires retailers to submit the **total number of customers restricted for non-payment during the reporting period with debts in the following ranges at the time of restriction for each of the following**:
 - *Water residential customers*
less than \$500
over \$500 but less than \$1500

³⁶ AER, Notice of Draft Instrument: AER (Retail) Performance Reporting Procedures & Guidelines Version 3, December 2017 p.18

- *over \$1500 but less than \$2500
more than \$2500.*
- *Water non-residential customers
less than \$500
over \$500 but less than \$1500
over \$1500 but less than \$2500
more than \$2500.*
- The AER's intention is this indicator will provide further detail on the effectiveness of the disconnection process and the way that it interacts with customers who have been on payment plans.³⁷

Concessions

The existing metrics that relate to concessions within Guideline No. 2 are sufficient. Further information about concession customers can be gathered through indicators in other categories.

Hardship Program Metrics

Currently, metrics relating to hardship customers are contained in Proforma OP2.2 – Financial Measures. SACOSS considers that **definitions could be included** around:

- 'successfully completing the hardship program', and
- 'being excluded from accessing a hardship program'

Existing / current metrics for hardship program in Guideline No.2

- Total number of customers participating in a financial hardship program (existing metric)
- Number of residential customers who entered the hardship program (existing metric) *consider **adding** in subcategories to this metric which require SA Water to report on the referral path – e.g.: self-identified, identified by SA Water or referred by a financial counsellor. This may provide further understanding around early intervention practices, noting that studies show customers rarely self-identify as being in hardship. It is also worth noting that SACOSS has received feedback from member organisations that energy retailers are more likely to accept customers into hardship programs where they have been referred by a financial adviser, as opposed to being self-identified. This metric would provide further information around SA Water's practices in accepting customers into its hardship program.*
- Average amount of bill debt for residential customers participating in the hardship program (existing metric)

Suggested metrics for hardship program

- Average amount of bill debt **on entry** into the hardship program
- **Levels** of bill debt of customers **entering** the hardship program (see also indicator UPP8 in [ESC Vic's Water Performance Indicator Definitions](#)):
 - *less than \$500*
 - *over \$500 but less than \$1500*
 - *over \$1500 but less than \$2500*
 - *more than \$2500.*
- **Age** of debt of hardship customers:

³⁷ AER, Notice of Draft Instrument: AER (Retail) Performance Reporting Procedures & Guidelines Version 3, December 2017 p.21

- *Less than 6 months*
- *Over 6 months but less than 12 months*
- *Over 12 months but less than 2 years*
- *2 years or more.*
- Average level of debt for customers subject to restriction and legal action.
- Percentage of customers in hardship programs meeting instalment plans.
- Number of hardship program customers receiving concessions.
- Length of customer participation in a hardship program.
- Number of customers excluded from the hardship program.
- Restriction of previous hardship customers.