



Australian
Competition &
Consumer
Commission

Compliance with the Water Rules: Information for Irrigation Infrastructure Operators

Guidelines on the treatment of bulk water charges

These guidelines are provided by the Australian Competition and Consumer Commission (ACCC) to assist irrigation infrastructure operators (IIOs) to comply with the water charge rules and the water market rules (collectively, the Water Rules¹). These guidelines are for guidance purposes only and do not constitute legal advice. If an IIO is uncertain about how the guidance applies to them, it can seek further clarification from the ACCC or consider obtaining independent legal advice.

The ACCC is responsible for monitoring and enforcing compliance with the Water Rules under the *Water Act 2007* (Cwlth).

Bulk Water Charges

Bulk water charges² are charges payable to bulk water service providers³ for water storage and delivery services.

Table: Key bulk water service providers within the Murray-Darling Basin

State	Bulk water service providers
NSW	State Water Corporation
VIC	Goulburn-Murray Water, Grampians Wimmera Mallee Water and Southern Rural Water
SA	SA Water
QLD	Sunwater

IIOs typically pay to bulk water service providers a combination of ‘fixed’ bulk water charges (based on volume of water held on the IIO’s water access licence) and ‘variable’ bulk water charges (based on volume of water stored or delivered). IIOs will then pass on the cost of the bulk water charges to their customers.

Bulk Water Charges and the Water Rules

IIOs must ensure that their treatment of bulk water charges is consistent with the Water Rules when:

- Preparing a Schedule of Charges to meet the requirements of the Water Charge (Infrastructure) Rules 2010.
- Calculating the maximum termination fee that can be imposed on customers terminating their right of access to the IIO’s irrigation network (including their water delivery rights) under the Water Charge (Termination Fees) Rules 2009.
- Calculating the security that can be requested from a customer transforming water available under their irrigation right under the Water Market Rules 2009.

¹ The Water Rules include the Water Market Rules 2009, the Water Charge (Termination Fees) Rules 2009 and the Water Charge (Infrastructure) Rules 2010 made under the *Water Act 2007* (Cwlth).

² The term ‘bulk water charges’ is defined in section 4 of the *Water Act 2007* (Cwlth).

³ Including infrastructure operators, defined in section 7 of the *Water Act 2007* (Cwlth), and other operators of reticulated water systems.

Bulk Water Charges and the Schedule of Charges

An IIO must prepare and provide to its customers, and/or publish, a Schedule of Charges that sets out the regulated charges the IIO will levy on its customers for specified irrigation infrastructure services in the course of the irrigation season.⁴

When preparing its Schedule of Charges, the IIO must separately show the components of the charges attributable to the bulk water charges⁵ and set out the bulk water charges as a separate line item from access fees and other charges.

If the bulk water (or other) charges change, the IIO must provide to its customers, and/or publish, a Schedule of Charges incorporating those changes, 10 business days before the charges become payable and the service is provided.⁶

For further details, refer to the ACCC's publication *Water Charge (Infrastructure) Rules* available at www.accc.gov.au/water.

Bulk Water Charges and Termination Fees: all IIOs

In the circumstances of termination or surrender of a right of access (including water delivery rights), an IIO may be permitted to impose a termination fee on a customer if the fee is calculated in accordance with the Water Charge (Termination Fees) Rules 2009.

Generally, the termination fee must not exceed 10 times the applicable total network access charge (TNAC).⁷ The TNAC refers to an amount payable, subject to various inclusions and exclusions, by the customer to the IIO in respect of the financial year in which written notice of termination or surrender is given by a customer.

An IIO must exclude bulk water charges from the TNAC when calculating the maximum termination fee that it can impose on a customer who is terminating or surrendering their right of access (including water delivery rights).⁸

For further details, refer to the ACCC's publication *A Guide to the Water Charge (Termination Fees) Rules* available at www.accc.gov.au/water.

Bulk Water Charges and Termination Fees: IIOs that are also bulk water service providers

Some IIOs provide bulk water services to their customers in addition to irrigation water delivery services. Such entities directly charge their customers bulk water charges in addition to access fees charged for the right to access their irrigation infrastructure.

As noted above, all IIOs must separately identify bulk water charges from access fees on their Schedule of Charges. If an IIO which also provides bulk water services to its customers fails this

⁴ Rules 11 and 15 of the Water Charge (Infrastructure) Rules 2010.

⁵ Rule 4 of the Water Charge (Infrastructure) Rules 2010.

⁶ Rule 12 of the Water Charge (Infrastructure) Rules 2010.

⁷ Rule 7 of the Water Charge (Termination Fees) Rules 2009.

⁸ Rule 3 of the Water Charge (Termination Fees) Rules 2009.

requirement (i.e. by including bulk water charges as part of access fees), the IIO is prohibited from imposing any termination fee on its customers.⁹

Bulk Water Charges and Security

An IIO may require security from a transforming customer if:

- after transformation, the volume of water the customer will be entitled to have delivered is more than 5 times the volume of water that the customer will be entitled to receive under their irrigation right¹⁰; or
- the customer ceases to hold any part of the irrigation right against the IIO.¹¹

In these circumstances, an IIO may request an amount of the security from the customer up to but not exceeding the amount of the maximum termination fee that would be payable at the time by the customer to the IIO for termination of their delivery right.¹²

As noted above, the IIO must exclude bulk water charges when calculating the maximum termination fee. The IIO must take this into account when determining the applicable amount of security.

For further details, refer to the ACCC's publication *A Guide to the Water Market Rules 2009 and water delivery contracts* available at www.accc.gov.au/water.

'Other' water storage charges

An IIO may charge its customers fees or charges for water storage services that are provided in the course of delivering water via its irrigation infrastructure.

For example, an IIO may utilise a wetland for the temporary storage of water in the course of delivering irrigation water to customers via its irrigation network.

If an IIO charges its customers a storage fee to recover the costs of operating the wetland, such a fee is not a bulk water charge.

As noted above, bulk water charges are fees or charges that are typically passed on by an IIO to its customers for bulk water services provided to it by a bulk water provider. These bulk water services are in addition to the services the IIO provides in delivering irrigation water via its irrigation network.

Unlike the bulk water charges, a storage fee or charge relating to the service for the storage of water provided by the IIO in the course of delivering water via its irrigation network may be included in the TNAC when calculating the maximum termination fee the IIO is permitted to charge a terminating customer.

For further details, refer to the ACCC's publication *A Guide to the Water Charge (Termination Fees) Rules* available at www.accc.gov.au/water.

⁹ Subrule 6(2)(b) of the Water Charge (Termination Fees) Rules 2009.

¹⁰ The term 'irrigation right' is defined in section 4 of the *Water Act 2007* (Cwlth).

¹¹ Subrule 10(1) of the Water Market Rules 2009.

¹² Subrule 10(2) of the Water Market Rules 2009.