



6<sup>th</sup> May 2015

Australian Competition and Consumer Commission  
Level 20  
175 Pitt Street  
SYDNEY NSW 2000

Submitted via e-mail [waternswreview@accc.gov.au](mailto:waternswreview@accc.gov.au)

**RE: Water NSW's annual review of regulated charges: 2015-16 – ACCC's draft decision**

This letter forms the NSW Farmers' submission to the Australian Competition and Consumer Commission (ACCC) about the ACCC's draft decision on Water NSW's annual review of regulated charges for the 2015-16 year, as per the Water Charge (Infrastructure) Rules 2010 (WCIR).

As this is the first annual review of Water NSW's regulated charges conducted by the ACCC, relating to Water NSW's 2014-2017 determination period charges ('the 2014 Determination'), we feel that it is important to set a correct precedent for the remaining annual reviews within the determination period and beyond, most importantly applying the two tests for alteration of the 2014 Determination correctly in the first instance. A loose application of the tests makes the tests redundant.

The two tests as defined by the WCIR which limit the ability of the ACCC to change the charges from those set out in the 2014 Determination are the 'change in forecasts' test, and the 'price stability' test. If satisfied, the former would allow the ACCC to approve or determine altered charges because of a significant change in the demand or consumption forecast submitted by Water NSW initially. The latter allows the ACCC to allow changes based on price stability.

Water NSW's application seeks approval of charges that are different to that under the 2014 Determination, based on the 'indicative charges set out in its 2014 Determination, with CPI adjustments, rather than charges determined in accordance with the UOM' (under and overs mechanism). The departure from the UOM was considered by Water NSW to be necessary to prevent the adverse price impact of higher charges not being in the best interests of customers.

The ACCC has analysed the charges as foreshadowed in the 2014 Determination using the two tests above, and has not accepted the changes, resulting in a draft determination containing fewer but more severe increases within the valleys. For example, general security entitlement holder charges in the Border, Lachlan and Macquarie valleys would, on average, rise by over 6%, (over 9% for high security) under the ACCC draft determination, whereas the most significant percentage change in expected bills (\$real) (not including the Peel or Lowbidgee) for the 2015-16 year would be a 2% increase if carrying over the under-recovery were accepted by the ACCC.

The ACCC has stated that the change is not accepted because under-recovery is likely to lead to more significant price increases in the longer term. However, NSW Farmers does not accept the assertion that the price stability test has not been satisfied as per the ACCC's draft determination and the WCIR. The ACCC have stated that the price stability test contained in WCIR Rule 37 (2)(b) is not satisfied using two grounds of price stability- the dollar value of the charges and the likely impact of the charges on Water NSW's customers' bills.

The ACCC state that the analysis of potential bills does not satisfy the test because 'the dollar value of these (higher charged valleys) charges remains more than 50% lower than the level of Water NSW's highest regulated charge'. This type of comparison across valleys does not work within the context of water pricing because

- The pricing principles underlying bulk water charges in NSW is one of nil cross subsidisation across valleys, which has established a framework for all water users supporting the infrastructure that supports that valley.
- Irrigators in each valley make business decisions based on charges in their valley- not other

valleys.

NSW Farmers submits that the charges put forward by the ACCC in its draft decision are so volatile so as to trigger the price stability test and should not be made.

Furthermore, as a member of the NSW Irrigators Council, NSW Farmers wish to echo and support the points raised in the NSW Irrigators' Council submission to this draft decision, particularly noting the increase in charges in the Murray, Murrumbidgee and Border River being due to the MDBA and Border River charges, which lack the scrutiny applied to other charges, and make up 64% of the overall charge.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Leys', written in a cursive style.

Danica Leys  
NSW Farmers Policy Director- Environment

**NSW Farmers' Association**

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