

**SUBMISSION ON ACCC REVIEW OF WATER CHARGE RULES –
DRAFT ADVICE – NOVEMBER 2015**

4 MARCH 2016

Queensland Farmers' Federation (QFF) is the peak body representing and uniting 15 of Queensland's rural industry organisations who work on behalf of primary producers across the state. QFF's mission is to secure a sustainable future for Queensland primary producers within a favourable social, economic and political environment by representing the common interests of its member organisations'. QFF's core business centres on resource security; water resources; environment and natural resources; industry development; economics; quarantine and trade.

Our goal is to secure a sustainable and profitable future for our members, as a core growth sector of the economy. Our members include:

- CANEGROWERS,
- Cotton Australia,
- Growcom,
- Nursery and Garden Industry Queensland,
- Queensland Aquaculture Industries Federation,
- Queensland Chicken Growers Association,
- Queensland Dairyfarmers' Organisation,
- Queensland Chicken Meat Council,
- Queensland United Egg Producers,
- Flower Association of Queensland Inc.,
- Pork Queensland Inc.,
- Australian Organic
- Pioneer Valley Water Co-operative Limited,
- Central Downs Irrigators Limited, and
- Burdekin River Irrigators Area Committee

Introduction

QFF's submission on the Issues Paper highlighted the value of the water charge rules in providing guidance for the implementation of water infrastructure charges and termination fees across Queensland. Specifically the rules guided the conduct of the Queensland Competition Authority review of bulk and distribution pricing for the current price paths for all SunWater and SEQWater schemes. This approach avoided the complication of two different pricing processes within the State - one for the Queensland Murray Darling system and one for the remainder of the State.

Proposals in the draft advice are aimed at 'streamlining the application of the rules and ensuring a consistent approach', 'improving pricing transparency and customer engagement and reducing overall regulatory burden and improving regulatory outcomes. In many respects the proposed rule changes will have the opposite impacts for schemes within the Qld Murray Darling catchments.

The proposed rule changes could have the following consequences:

1. The ACCC could be the default regulator for the Queensland Murray Darling schemes as there are questions about the independence QCA has to investigate pricing issues.

It is not considered that the ACCC has the capacity or willingness to address the detail involved in regulatory pricing for the Queensland schemes.

2. There could be two separate regulatory processes implemented in Queensland - an ACCC process for the schemes in the Queensland Murray Darling catchments and a separate process for the rest of the state.
3. All schemes in the Queensland Murray Darling Basin could be subject to full independent regulation with the removal of the tiered approach. Three of these schemes are very small (less than 8GL of entitlement in total for the three) and Upper Condamine 34GL, MacIntyre Book 25GL and St George 85GL are small in comparison with larger southern schemes.
4. The draft rules will raise uncertainty in regard to the conduct of the review of charges for the Queensland bulk schemes.
5. An ACCC regulatory review for the Queensland Murray Darling schemes could result in a change in approach to a range of complex issues addressed by QCA in establishing the current price paths for the bulk and distribution prices. The result could be additional costs and regulation for a questionable outcome.

While it is understood that the ACCC is prepared to place limits around the application of part 6 of rules and to implement an exemptions process there is no longer any specification in the rules to guide how the ACCC would proceed in regard to these issues. Accordingly, QFF can only conclude that implementation of the draft rules in the Queensland Murray-Darling will not achieve the outcomes defined for the review. Issues in regard to the application of the Part 6 rules must be clarified before the draft rules are finalised and if necessary the cost benefit of the changes need to be assessed.

Response on Draft Rule Advices

Rule Advice 4-A and 4-B Combination of three sets of water charge rules and the definition of these rules

Supported

Rule Advice 4-C Private right of action to extend to all water charge rules

Supported on the understanding that ACCC will continue with the approach outlined in their guideline material.

Rule Advice 5-A Application to all infrastructure operators regardless of ownership and removal of tiered regulation

QFF opposes this rule change for the reasons outlined in the introduction to this submission. QFF is also concerned that proposed rules will no longer recognise the difference between private and public operators. Local management arrangements currently being investigated for number of distribution schemes in Queensland (including the St George scheme within

the Murray-Darling catchments) will not be profit maximising businesses. Further regulation of pricing for these future organisations is unnecessary and will add significant uncertainty to the processes currently underway to establish the enterprises now that the initial round of due diligence investigations has been completed.

Rule Advice 5-B, C and D Expansion of current protections to also prohibit price discrimination and the levying and demanding payment of charges which are discriminatory

While QFF understands the principles the Commission is seeking to address it is unclear what impact implementation of these principles will have within schemes. Application of these proposals could not only impact on a range of policies that have been put in place but also service delivery arrangements within schemes designed to promote delivery of efficiencies. The costs involved in the implementation of this additional regulation need to be examined to assess how matters of price discrimination can be addressed without significant cost to schemes. Implementation of this advice needs further investigation before any decision is made to proceed with legislative changes.

Rule Advice 5-E and F Schedule of charge requirements for infrastructure operators or other than infrastructure operators (ie for water planning and management charges)

QFF considers that there are requirements in the schedule of charges that are unnecessary and duplicate reporting provided in the Network Service Plans (refer to comments on Rule Advice 5-L)

Rule Advice 5-G, H and I Publication of schedule of charges on websites but not in local papers or gazettes. Timing for publication of schedule of charges

Supported

Rule Advice 5-J and K Exemptions from publication of schedule of charges

Supported subject to comments on Rule Advice 5-E and F

Rule Advice 5-L Repeal of Network Service Plan requirements if non-discrimination and pricing transparency provisions are accepted

Network Service Plans have to be prepared annually for all SunWater and SEQWater irrigation schemes as part of the requirements for the current price regulations. QFF has supported the preparation of the network service plans for this period to provide a transparent annual reporting process on the implementation of the prices recommended by QCA. The annual plans will also provide data for and efficiencies in the conduct the next price investigations.

Rule Advice 5-M Exemption to the requirement for an irrigation operator to have infrastructure charges approved or determined

It is recognised that ACCC has to have regard to such matters as total volumes of water access rights, total volumes subject to water sharing arrangements, types of services, preferences of scheme customers and State agencies in determining any exemptions for a specified or unspecified period. This approach does not provide the clarity that the tiered approach provided for the schemes in the Queensland Murray-Darling catchments. It is noted also that adoption of this advice is conditional on adoption of rule advices 5-A to 5-E regarding non-discrimination and pricing transparency provisions. QFF does not support this advice.

Rule Advice 5-N Timeframes that apply for processes to apply for pricing regulation of irrigation water providers.

QFF cannot form a view on the proposed time frames given uncertainty regarding the application of the Rule 5 advices

Rule Advice 5-O Regulator to be allowed to lengthen the regulatory period from 3 up to 5 years

Supported but it is understood that this will require an amendment to the Act.

Rule Advice 5-P Basis for approving and determining regulated charges

This is a process based advice. No comment at this stage.

Rule Advice 5-Q and R Variations of determinations

QFF considers that proposals in these advices will raise significant issues for maintaining a consistent state-wide process for pricing regulation.

Rule Advice 5-S, T, U and V Distributions to customers

No comments – it is not considered that this is an issue for Queensland schemes at this point.

Rule Advice 5-W Winding back accreditation requirements for Basin State regulators

QFF can't support this proposal as it is conditional on the adoption of rule advices 5-A to 5-E regarding non-discrimination and pricing transparency provisions.

Rule Advice 5-X Exemption for charges negotiated as part of access disputes under Part 111A of the Trades Practices Act despite

No comment

Rule Advice 5-Y and Z Pass through of directly attributable charges, shared charges and distribution loss charges

QFF considers that proposals in these advices will raise significant issues for maintaining a consistent state-wide process for pricing regulation.

Rule Advice 6-A Information to customers regarding the use of termination fees

Supported

Rule Advice 6-B Calculation of termination fees to include fixed volumetric infrastructure charges

This principle was applied by QCA for the current price paths for distribution schemes managed by SunWater and SEQWater

Rule Advice 6-C Separate charges for infrastructure dedicated for the exclusive use of terminating customers

This case has not been an issue raised in Queensland distribution schemes. Proposal noted

Rule Advice 6-D Which charges apply when calculating termination fees

It is understood that this ruling has already been applied in the current price paths for distribution schemes managed by SunWater and SEQWater

Rule Advice 6-E Impact of termination fees on trading markets may affect

QFF agrees that the question of whether termination fees could adversely affect the operation of markets is a complex issue. The issue probably needs to be examined on a case specific basis in the Queensland schemes taking into account progress being made in implementing pricing reform. QFF is of the view that the approach fully investigated and adopted by QCA for the current price paths is compliant with ACCC rules and the issue of trades in delivery rights is not a relevant to schemes in the Queensland Murray-Darling at this stage.

Rule Advice 6-F Operators responsibilities upon receiving notice of intention to terminate

Supported

Rule Advice 7-A Repeal of requirement for disclosure of the nature and cost of water planning and management charges

Supported

Rule Advice 7-B Disclosure of information about water planning and management charges harmonised with general pricing transparency requirements for infrastructure charges

Supported

Response on other issues of concern Section 8

Recommendation 8-A Australian Government should work with the Basin States to improve the accuracy and consistency of water trade reporting

Supported however the focus should be on facilitating market based opportunities to achieve this outcome.

Recommendation 8-B Dealing with unbundling of rights in the southern schemes

No comment at this stage

Recommendation 8-C Governments consider the merits of expanding the jurisdiction of existing ombudsman schemes or small business commissioners

Supported

Response on assessment of change in regulatory cost - Section 9

The analysis applies within the Murray-Darling. The cost implications of these regulations would need to be assessed on a state wide basis in the interests of establishing a consistent approach.