



10 March 2016

Review of the water charge rules
Australian Competition and Consumer Commission
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Submission to the review of the water charge rules

It is acknowledged that the draft amendments to the water charge rules would substantially address inconsistency between the water charge rules and the operation of an access arrangement or third party access regime under Part IIIA of the *Competition and Consumer Act 2010*.

The Draft Advice proposes to retain the existing exemption mechanism in relation to the information publication requirements. It is understood that the information publication requirements are considered to be a feature of the water charge rules that encourages competition.

South Australia's third party access regime set out in the *Water Industry (Third Party Access) Amendment Act 2015* contains a range of pro-competitive measures overseen by an independent regulator, the Essential Services Commission of South Australia (ESCOSA). The measures include:

- information obligations on the infrastructure operator;
- conciliation;
- legally binding arbitration;
- annual public reporting by ESCOSA; and
- periodic reviews by ESCOSA.

Arguably, the lack of certainty about the information publication requirements increases risk to both the infrastructure operator and the access seeker. This could impact on the negotiated outcomes and access seeking behaviour.

It is requested that the Australian Competition and Consumer Commission in its final advice and final proposed rule amendments include a class-exemption for the information publication requirements. It is suggested that the infrastructure operator should be exempt from the information publication requirement if:

- water charges relate to an infrastructure operator covered by an access arrangement or third party access regime under Part IIIA of the *Competition and Consumer Act 2010*; and

- the access arrangement is subject to oversight by an independent regulator that is required to report publicly on an annual basis.

If you require any further information please do not hesitate to contact me.



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