



WATER CODE CONSULTATIVE COMMITTEE

Our ref: D275092
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17 April 2024

Mr Steve Edwell
Chair
Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street
PERTH WA 6000

Dear Mr Edwell

Water Code Consultative Committee advice on the ERA's draft decision 2023 Review of the *Water Services Code of Conduct (Customer Service Standards) 2018*

I am pleased to provide you with the Water Code Consultative Committee's advice on the Economic Regulation Authority's Draft decision: 2023 Review of the Water Services Code of Conduct (Customer Service Standards) 2018.¹

On 5 March 2024, the ERA published its draft decision and draft amended Water Code public comment. No submissions were received during the three-week consultation process.

The Committee advised the Secretariat that a meeting to discuss the draft decision was not necessary. In providing this advice, the Committee considered the ERA's draft decision and subsequent discussions with the Secretariat.

The Committee supports all proposals in the draft decision to amend the Water Code. In addition, the Committee provides the following advice on further amendments for the ERA to consider in its final decision on the Water Code.

Clause 4(1) – Application of code

The draft decision proposed the following amendments to clause 4 to clarify the services that the Water Code applies to while ensuring that the Water Code continues to apply to the same types of customers.

4. Application of code

~~(1) In this clause—~~

¹ Draft Decision - 2023 review of the Water Services Code of Conduct (Customer Service Standards) 2018 ([online](#)).

~~drinking water means —~~

~~(a) — potable water; and~~

~~(b) — water that is not potable but that is supplied on the basis that the customer is responsible for treating the water to make it fit for humans to drink.~~

(12) This code applies to —

~~(a) — each licensee that provides a water supply service, but only in respect of the supply of drinking water, and each of the licensee’s customers; and~~

(a) each licensee that provides a water supply service, but only in respect of the supply of —

(i) potable water; or

(ii) water that is able to be treated by the customer to make it fit for humans to drink; and

(b) each licensee that provides a sewerage service ~~and each of the licensee’s customers.~~

After publication of the draft decision, the Water Corporation expressed concern that a customer could misinterpret 4(a)(ii) by assuming that the Water Code applies if they attempt to treat non-potable water. Resources on the Water Corporation’s website note that water from non-potable sources can never be treated to make it safe for human consumption.²

The Committee considered the Water Corporation’s suggestion (highlighted) to amend clause 4(a)(ii):

(ii) water that is **not potable and the customer is advised by the licensee that the water should be treated for domestic purposes.** ~~able to be treated by the customer to make it fit for humans to drink; and~~

The Committee considered that including the wording “advised by the licensee” may make Water Code protections dependent on a licensee providing advice. The Committee also considered that there was not a strong case for replacing the term “fit for humans to drink” with “domestic purposes”. The term “fit for humans to drink” has been in the Water Code since it commenced in 2013.

The Committee recommends the following amendment (highlighted) to the draft decision:

(a) each licensee that provides a water supply service, but only in respect of the supply of —

(i) potable water; or

(ii) water that is **not potable but is** able to be treated by the customer to make it fit for humans to drink; and

Clause 12 – Sending bills

The draft decision included the new clause 12(5) to prevent licensees charging certain groups of customers when supplying a paper bill. These customers include those affected by family

² Water Corporation, Advice Article ‘Non-potable water supply’ ([online](#)).

violence, customers receiving a concession or experiencing payment difficulties and customers on the preserved supply register. The Committee notes the preference of its member from Consumer Protection that the exemption from paper billing fees be extended to all customers. However, the Committee recommends no further change to the obligations on licensees regarding paper billing fees at this time.

Clause 49 – Information to be widely available

The draft decision outlined the Committee’s deliberations on removing 49(1)(h)(i) which gives a customer seven days to accept a payment plan before the rate of flow of a supply of water can be reduced. The Committee noted that the Water Corporation does not cut off or reduce the rate of flow to a customer in this situation, however, was comfortable retaining the subclause.

Since the draft decision was published, the Secretariat and Committee became aware of an anomaly that has changed the Committee’s view of clause 49(1)(h)(i).

Clause 49(1)(g) requires licensees to publish information on their website that it may cut off, or reduce the rate of flow of, a supply of water if a water service charge remains unpaid for 30 days after it becomes due. Clause 49(1)(h)(i) requires licensees to publish a statement noting that the power under clause 49(1)(g) can be only exercised when a customer has not accepted a payment plan offer within seven days.

The anomaly is that clause 49(1)(h)(i) does not have a corresponding clause requiring the licensee to offer a customer seven days to accept a payment plan. The Committee understands that without a corresponding clause, a licensee lacks the power to cut off or reduce a customer’s supply on the basis that the customer has not accepted the payment plan within the seven days.

The Water Corporation and Bunbury Water (Aqwest) do not cut off or restrict water supply if the payment plan has not been accepted within seven days and note that removing clause 49(1)(h)(i) would not reduce entitlements for customers, nor increase obligations for licensees.

Removing clause 49(1)(h)(i) would assist licensees by not requiring publication of an action that licensees have no power to exercise. The Committee supports removing clause 49(1)(h)(i).

If you have any questions about the Committee’s advice, please contact me.

Yours sincerely



Sara O'Connor
Chair
Water Code Consultative Committee