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Advice to Treasurer on Water Industry Licence Fees

January 2024

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Enquiries concerning this report should be addressed to:

Essential Services Commission
GPO Box 2605
Adelaide SA 5001

Telephone: (08) 8463 4444
Freecall: 1800 633 592 (SA and mobiles only)
E-mail: escosa@escosa.sa.gov.au
Web: www.escosa.sa.gov.au

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1 Summary

This reports sets out the Essential Service Commission's (**Commission**) advice on water licence fees (**licence fees**) to be set by the Treasurer under the *Water Industry Act 2012* (**Act**) from 1 July 2024 to 30 June 2028. The advice requested, by the Treasurer on 1 November 2023, is summarised as follows:

The costs that are intended to be recovered through licence fees during the 2024-2028 period (**proposed prescribed costs**) of **\$37.9 million** are considered to be within the scope of prescribed costs for the purposes of section 24(8) of the Act.

The Treasurer has requested the Commission's advice on licence fees pursuant to section 24(3) of the Act, which provides that:

'The annual licence fee for a licence is the fee fixed, from time to time, by the Treasurer in respect of that licence as an amount that the Treasurer considers to be a reasonable contribution towards prescribed costs after taking into account advice contained in a written report furnished to the Treasurer by the Commission for the purposes of this subsection.'

The 'prescribed costs' referred to in that section are defined in section 24(8) to mean:

- (a) the costs of administration of this Act; and
- (b) any costs of administration of the Essential Services Commission Act 2002 relating to the water industry; and
- (c) any costs associated with the development by the State Government of policies relating to the water industry; and
- (d) other costs prescribed by regulation.

For the purposes of section 24(8)(d) of the Act, there are no other costs prescribed by regulation.

As requested by the Treasurer, the Commission's advice has focused on whether or not the proposed prescribed costs fall within the definition of prescribed costs under section 24(8) of the Act.

Section 2 of this document sets out the Commission's advice on this matter.

The Commission has also provided advice on the setting of licence fees in accordance with what amount can be considered a 'reasonable contribution towards prescribed costs.'¹ Section 3 of this document sets out the Commission's advice on this matter.

¹ See section 24(3) of the *Water Industry Act 2012*.

2 Proposed prescribed costs

On 1 November 2023, the Treasurer wrote to the Commission requesting advice on whether or not the proposed prescribed costs set out in Table 1 for the period of 1 July 2024 to 30 June 2028 fall within the definition of prescribed costs under the Act.

Table 1: Proposed Prescribed Costs 2024-25 to 2027-28 - \$'000 ^{a)}

Proposed prescribed costs (\$'000)	2023-24 ²	2024-25	2025-26	2026-27	2027-28	Total 2024-28 ³
Essential Services Commission (Commission)	3,503.4 ⁴	4,023.6	4,124.2	4,227.3	4,333.0	16,708.2
Department of Treasury and Finance (DTF)	413.3	421.2	431.8	442.6	453.6	1,749.2
Department of Environment and Water (DEW)	897.9	917.3	934.6	952.3	970.3	3,774.5
Consumer Advocacy and Research Fund (CARF)	342.5	345.8	354.5	363.4	372.4	1,436.1
Office of the Technical Regulator (OTR)	3,434.3	3,473.3	3,515.3	3,604.2	3,694.3	14,288.1
Total recommended recovery of prescribed costs	8,591.4	9,181.20	9,360.40	9,589.80	9,823.60	37,956

2.1 Proposed prescribed costs

The proposed prescribed costs include the continuation of relevant departmental and agency costs currently recovered from licence fees, escalated for inflation.

The Commission's advice is that the proposed prescribed costs appear to fall within the scope of prescribed costs for the purposes of section 24(8) of the Act. Further information on the activities to be funded by the proposed prescribed costs is provided below.

² 2023-2024 included for comparative purposes only.

³ Totals may not add due to rounding.

⁴ The Commission's actual spend on prescribed costs in 2023-24 was lower than proposed in its advice to the Treasurer in 2019.

2.1.1 Consumer Advocacy and Research Fund (CARF)

Section 87 of the Act establishes the CARF. This fund commenced with an amount of \$250,000 on 1 July 2013 and is adjusted, in accordance with the Act, by reference to the Consumer Price Index (CPI) each year. Proposed activities undertaken by the CARF in accordance with the Act are:

- ▶ supporting the South Australian Council of Social Service and the social services sector to provide advocacy services on behalf of disadvantaged water consumers, and
- ▶ running an annual grant program to fund projects to advance the needs of water consumers.

The Commission considers that, provided the CARF is adjusted in accordance with the Act, costs associated with the CARF fund are prescribed costs for the purpose of section 24(8)(a) of the Act.

2.1.2 Essential Services Commission (Commission)

Section 7 of the Act appoints the Commission as the economic regulator of the water industry and assigns it functions under that Act. In accordance with the Act, these functions are:

- ▶ assessing and licensing water and sewerage retail providers
- ▶ monitoring and reporting of water and sewerage licensee performance against licence conditions, and
- ▶ activities related to revenue determinations, retail price regulation and service standard setting for water and sewerage licensees.

The Commission considers that the costs associated with these activities are prescribed costs for the purposes of section 24(8)(b) of the Act.

2.1.3 Department of Environment and Water (DEW)

Proposed activities to be undertaken by DEW in accordance with the Act include:

- ▶ preparation (on behalf of the Minister) of an adaptive water security framework to meet the requirements of the State Water Demand and Supply Statement
- ▶ work with stakeholders to identify strategies to secure water supplies
- ▶ implementation of the Urban Water Directions Statement
- ▶ policy support to the Minister in the administration of the Act, and
- ▶ input to regulatory determination processes.

The Commission considers that the costs associated with these activities are prescribed costs for the purposes of section 24(8)(c) the Act.

2.1.4 Department of Treasury and Finance (DTF)

Proposed activities to be undertaken by DTF to support the Treasurer administer responsibilities under the Act include:

- ▶ establishing and setting water licence fees
- ▶ issuing pricing orders which set out matters that the Commission must take into account or apply in making a revenue determination for a water entity
- ▶ providing advice on the development of policies and/or legislation relating to the water industry, and
- ▶ providing directions to SA Water pursuant to inform a revenue determination made by the Commission.

The Commission considers that the costs associated with these activities are prescribed costs for the purposes of section 24(8) paragraphs (a) and (c) of the Act.

2.1.5 Office of the Technical Regulator (OTR)

The Act (section 8) appoints a Technical Regulator for the water industry and assigns it various roles and functions. Proposed activities undertaken by the OTR in accordance with the Act include:

- ▶ the development and monitoring of technical standards and codes for on-site plumbing
- ▶ the provision of technical and safety advice to the plumbing industry
- ▶ administer the plumbing certificate of compliance scheme as set out under section 69(2), and
- ▶ regulatory activities related to water and sewerage infrastructure, including:
 - developing and monitoring adherence to technical standards for water and sewerage infrastructure and installations
 - technical review of licence applications
 - performance monitoring of the water industry
 - facilitation, review, approval and auditing of water industry entities' safety, reliability, maintenance, and technical management plans, and
 - responding to incidents in relation to water and sewerage operations.

The Commission considers that the costs associated with these activities are prescribed costs for the purposes of section 24(8) paragraph (a) and (d) of the Act.

3 Reasonable contributions

Having established that the proposed costs meet the definition of prescribed costs under the Act, the Commission suggests that the following principles could be adopted in the setting of licence fees:

- ▶ Prescribed costs (as defined under section 24 of the Act) should be fully recovered through licence fees. This is consistent with the full cost-recovery position adopted for electricity and gas licence fees by relevant Ministers.
- ▶ Licence fees should be established on a banded or class basis, rather than on an individual basis.
- ▶ Licence fee bands, or classes, should take into consideration the size of the customer base and capacity to pay.
- ▶ The amount of each licence fee class should reflect regulatory effort.

The Commission understands that the current licence fee structure has been set according to these broad principles.



The Essential Services Commission
Level 1, 151 Pirie Street Adelaide SA 5000
GPO Box 2605 Adelaide SA 5001
T 08 8463 4444

E escosa@escosa.sa.gov.au | W www.escosa.sa.gov.au