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Water and Sewerage

WATER AND SEWERAGE INDUSTRY ACT 2008

Interim Price Order

STATEMENT OF INTENT

THE intent of the Interim Price Order is to commence transitioning revenues in the water and sewerage sector towards sustainable levels. In doing so it balances achieving full cost recovery over a sensible timeframe with ensuring that no customer faces price shocks.

Given the continuity of service provision challenge for the new regional service providers, the Order does not provide for an immediate move to full compliance with all the pricing principles contained in the *Water and Sewerage Industry Act 2008*.

The Order does not, for instance, deal with the issues of customer class cross-subsidies associated with pricing based on the Assessed Annual Value of property, which was the existing pricing methodology in 10 municipalities of Tasmania at the time of the reform.

In recognition of this, a yearly review of the Order is required. In commencing the first review of the Order, the independent Economic Regulator will be required to advise on implementation paths for moving to a full two-part pricing regime across all three regions on a uniform basis. In addition, the Regulator will be asked to recommend transitional pricing adjustments that progressively reduce the level of cross-subsidisation between classes of customers, while ensuring that pricing for each regulated entity covered by the revised Orders progress towards full cost recovery in each year the Order has effect.

By the time of the first review the Government aims to have developed pricing regulations which will provide further guidance to the Regulator and the new corporations in respect of how pricing and tariff structures are intended to evolve in the sector. These regulations are expected to deal with issues such as changing the regulatory asset base for the sector over time, further clarification of headworks and trade waste pricing, the geographic basis of pricing and, the roll-out of water meters where they don't currently exist.

These regulations will be developed with input from the Regulator and other key stakeholders, including the corporations and community and business groups.

In summary, the first year of the Interim Price Order will underpin the operating revenue required by the corporations and commence the transitioning of revenues recovered towards full cost recovery. Subsequent years will, consistent with any pricing regulations that come into effect under the *Water and Sewerage Industry Act 2008*, focus on progressively unwinding cross-subsidies and moving towards a user pays framework that is consistent with the principles contained in section 68 of the *Water and Sewerage Industry Act 2008*.

HON MICHAEL AIRD, MLC,
Treasurer.

WATER AND SEWERAGE INDUSTRY ACT 2008

Interim Price Order

1. Interpretation

- 1.1. This Interim Price Order is made under section 88 of the *Water and Sewerage Industry Act 2008*.
- 1.2. Where a term used in this Order is defined in the *Water and Sewerage Industry Act 2008*, it has the meaning given in the *Water and Sewerage Industry Act 2008*.
- 1.3. If there is an inconsistency between this Order and the *Water and Sewerage Industry Act 2008*, the *Water and Sewerage Industry Act 2008* will prevail to the extent of any inconsistency.
- 1.4. In this Order, unless the contrary intention appears –

“allowable rate of revenue increase” means the Municipal Area Customer Cap for each regulated entity for each financial year specified in Schedules 1, 2, and 3 of this Order;

“developer charges” means:

- (a) the full or partial cost of any extension of water or sewerage infrastructure, or expansion of its capacity, required as a result of a new development; or
- (b) the gifting of water or sewerage infrastructure to a regulated entity which was paid for by a developer so as to affect the extension or expansion referred to in (a);

but cannot include the costs directly associated with the connection of a property to a water or sewerage main or local reticulation main, which may be separately recovered from the customer.

“fluoridation assets” means those assets used for the provision of fluoridation services;

“fluoridation services” means fluoridation services that are currently provided;

“region” means the relevant region as defined by section 43(2) of the *Acts Interpretation Act 1931*;

“wastewater re-use assets” means those assets used for the provision of wastewater re-use services;

- 1.5. Explanatory notes included in this Interim Price Order are marked in italicised parenthesis and do not form part of this Interim Price Order.

2. Interim Price Order Application

- 2.1. The terms of the Interim Price Order are to commence on 1 July 2009 and apply until the commencement of the first regulatory period that is fixed under section 65(12) of the *Water and Sewerage Industry Act 2008*.
- 2.2. The Interim Price Order is to be reviewed by the Treasurer on a yearly basis. In reviewing the Interim Price Order, the Treasurer is to seek advice from the Economic Regulator and is to consult publicly on any amendment to the terms of the Interim Price Order.
- 2.3. The Interim Price Order is to apply to the following regulated activities:
- (a) Water Services (including fluoridation services);
 - (b) Sewerage Services (including trade waste services); and
- where these activities are provided by the following regulated entities within its region:
- (c) Tasmanian Water and Sewerage Corporation (Northern Region) Pty Ltd (ACN 133 655 062);
 - (d) Tasmanian Water and Sewerage Corporation (North-Western Region) Pty Ltd (ACN 133 655 008); and
 - (e) Tasmanian Water and Sewerage Corporation (Southern Region) Pty Ltd (ACN 133 654 976).
- 2.4. Should a regulated entity provide a regulated service outside of its region, the revenues recoverable for those services are not to be regulated under the Interim Price Order.

[Should a service be provided outside of a regulated entity's region, it is assumed that they will be competing against the regulated prices for that region and as such, revenue regulation is not necessary.]

[An exemption order has been drafted to commence on 1 July 2009 that provides that only the three regulated entities will be required to be licensed under the Water and Sewerage Industry Act 2008 for 2009-10, with all other water and sewerage service providers being exempted from the licensing requirement and therefore economic regulatory oversight, including this Interim Price Order. This will allow a fulsome list of other service providers to be collected and articulated in a new exemption order to commence from 1 July 2010.]

3. Revenue Allowance

- 3.1. The Tasmanian Water and Sewerage Corporation (Northern Region) Pty Ltd is to recover revenues for regulated activities it delivers within its region consistent with Schedule 1 to this Order.
- 3.2. The Tasmanian Water and Sewerage Corporation (North-Western Region) Pty Ltd is to recover revenues for regulated activities it delivers within its region consistent with Schedule 2 to this Order.
- 3.3. The Tasmanian Water and Sewerage Corporation (Southern Region) Pty Ltd is to recover revenues for regulated activities it delivers within its region consistent with Schedule 3 to this Order.
- 3.4. Regulated entities are to comply with the municipal area customer caps in the relevant Schedule, such that the regulated entity will have separate allowable rates of revenue increase for customers in each of the municipalities in its region.
- 3.5. The revenue allowance is further split between revenue to be recovered from water services (inclusive of fluoridation services) and revenue to be recovered from sewerage services.

[The structure of the revenue allowance reflects the differing levels of cost recovery between municipal areas and between regulated services within a municipal area.]

4. Revenue Recovery and Billing

- 4.1. A regulated entity is to charge its customers for regulated services on the same tariffs, fees and charges as were charged in 2008-09, adjusted to reflect the municipal area customer cap increase for the specific municipality as contained in the regulated entity's relevant Schedule.
- 4.2. A regulated entity must not breach any existing contractual arrangements with its customers and, as such, the municipal area customer caps do not apply to such contracts where these contracts contain provisions that deal with price changes over time.
- 4.3. Where a customer has not entered into a contractual arrangement in respect of a regulated service, or the contract does not provide for price adjustments and it is not the intent of the contract to maintain the current price, that customer is subject to the increased charges determined by the applicable municipal area customer cap under the relevant schedule.
- 4.4. A regulated entity may vary the 2008-09 price at a rate other than the prescribed municipal area customer cap if agreed with a customer. This is expected to be warranted in a few specific circumstances, such as where a customer requires a level of service above that available to other like customers and this will impose additional costs on a regulated entity.

- 4.5. A customer is defined under the *Water and Sewerage Industry Act 2008* as including a person who is either the owner or occupier of property connected to the infrastructure of a regulated entity. As such, customers can include properties which are connected to a regulated entity's infrastructure, but which were not charged for water or sewerage services prior to 1 July 2009.
- 4.6. For persons who become customers on or after 1 July 2009, the regulated entity is to charge such customers, either:
- i. in accordance with the charging methodology and tariffs applying for like customers in the customer's municipality in 2008-09 (adjusted to reflect the municipal area customer cap for the particular municipality); or
 - ii. at a level which at least recovers the revenues associated with the customer's share of operating, maintenance and administrative costs and, wherever possible, will also recover depreciation and debt servicing costs.
- 4.7. Where a fee or charge for a water service or sewerage service was being levied prior to 1 July 2009, but that fee was not charged in all municipalities in a regulated entity's region, that fee can be charged by the regulated entity in those municipalities where it was not charged prior to 1 July 2009 on a cost recovery basis.
- 4.8. For at least the first year of the Interim Price Order, the regulated entity is to bill the property owner for water and sewerage charges and it is anticipated that Interim Price Order billing will occur on an occupier basis by no later than the end of the Interim Price Order term.
- 4.9. Notwithstanding 4.1, a regulated entity may vary the terms and conditions of charges levied in respect of the timing and number of bills, discounts applied to bills, penalties for non-payment of bills and the payment options available.
- 4.10. In respect of any variation under 4.9, billing must at least occur three times a year, while the regulated entity must provide the intended variation to penalties for non-payment to the Treasurer for approval.
- 4.11. A regulated entity may develop an interim policy in respect of section 68A of the *Water and Sewerage Industry Act 2008* to cover the period until a formal policy is approved by the first price and service plan.
- 4.12. Where a requirement to honour existing contractual arrangements exists, the regulated entity cannot charge another customer in excess of the allowable municipal area customer cap for a particular municipality.
- 4.13. The regulated entity is to publish on its website by no later than 1 August 2009 its tariffs, fees and charges for the first year of the Order and must notify all customers of the website address and that the charging structure and tariffs are located on that website.
- 4.14. In the event that a regulated entity does not maintain an internet website, the regulated entity must provide a copy of its charging structure and tariffs policy to all customers free of charge.

5. Revenue Allowance Adjustment and Pass Through

- 5.1. The Treasurer may allow for a pass through of additional costs or cost savings to customers to occur outside of the yearly review of the Order if, in the Treasurer's view, any of the following events occur:
- i. there is a change to regulation that imposes a material additional cost; or
 - ii. an event occurs which was either unanticipated or which alters the rate, or amount, of tax to be paid by the regulated entity and which imposes material costs; or
 - iii. there is a material under or over recovery of revenue in any year.
- 5.2. The Treasurer may review and amend the municipal area customer caps contained in Schedules 1, 2 and 3 outside of the yearly review of the Order if, in the Treasurer's view, there is a material factual error in the information or assumptions upon which the revenue allowance was developed.
- 5.3. Where the Treasurer determines that the municipal area customer caps may be amended, or that an event specified in 5.1 of this Order may occur, the Treasurer must obtain the advice of the Regulator on the appropriate level of adjustment.
- 5.4. Municipal area customer cap adjustments made outside of the yearly review of the Order may only be made on a half-yearly basis on 1 January in the relevant year.
- 5.5. Where the Treasurer determines that a municipal area customer cap is to be adjusted, the Treasurer is to notify the relevant regulated entity(ies) one month prior to the adjustment taking effect.

6. Developer Charges Pricing Policy

- 6.1. Consistent with a policy developed under 56J(4) of the *Water and Sewerage Industry Act 2008*, developer charges may be applied by the regulated entity to developers requiring the extension or expansion of the regulated entity's water infrastructure or sewerage infrastructure.
- 6.2. A regulated entity is to levy developer charges that are economically justifiable in that they represent costs reasonably attributable to the developer, and which are to be consistent with pricing principles 68(1)(a)(i), 68(1)(b)(ii) and 68(1)(e) of the *Water and Sewerage Industry Act 2008*.
- 6.3. The regulated entity is to publish on its website by no later than 1 August 2009 the developer charges pricing policy for the first year of the period covered by this Order and must notify all customers of the website address.
- 6.4. In the event that the regulated entity does not maintain an internet website, the regulated entity must provide a copy of its developer charges policy to all customers free of charge.
- 6.5. By 30 September 2009, the regulated entity is to provide a submission to the Treasurer regarding its view on the appropriate principles for the setting of developer charges.
- 6.6. For the avoidance of any doubt, the policy referred to under 6.3 may not apply retrospectively.

[Sections 21 and 22 of the Water and Sewerage Legislation (Miscellaneous Amendments) Act 2009 apply in respect of developer charges. These clauses deal with the regulated entities honouring any existing permits issued or agreements made in respect of developer charges (for example Part 5 Agreements made under the Land Use Planning Approvals Act 1993). Similarly, the developer, as counter party, is taken to have entered into a contract with the corporation in this respect.]

[Pricing regulations anticipated to come into effect in 2010 are expected to provide further guidance on the treatment of developer charges. These pricing regulations will be reflective of the future pricing objectives in the Water and Sewerage Industry Act 2008. The submission required under 6.5 is to assist in the first review of the Interim Price Order and to help inform pricing regulation development.]

7. Trade waste Pricing Policy

- 7.1. Trade waste charges may be applied to customers seeking to discharge trade waste to the infrastructure of a regulated entity.
- 7.2. A regulated entity is to levy trade waste charges which are economically justifiable in that they represent costs reasonably attributable to the customer, and which are to be consistent with the pricing principles 68(1)(a), (b) and (e) of the *Water and Sewerage Industry Act 2008*.
- 7.3. The regulated entity is to publish on its website by no later than 1 August 2009 its trade waste pricing policy for the first year of the period covered by this Order and must notify all customers of the website address and that the trade waste charges policy is located on that website.
- 7.4. In the event that the regulated entity does not maintain an internet website, the regulated entity must provide a copy of its trade waste policy to all customers free of charge.
- 7.5. By 30 September 2009, the regulated entity is to provide a submission to the Treasurer regarding its view on the appropriate principles for the setting of trade waste charges.

[Section 20 of the Water and Sewerage Legislation (Miscellaneous Amendments) Act 2009 applies in respect of trade waste. This clause requires that special plumbing permits for trade waste discharge in force prior to 1 July 2009, are after that date taken to be consents given under Water and Sewerage Industry Act 2008 in respect of discharge and are taken to continue on the same terms and conditions.]

[Pricing regulations to come into effect are expected to provide further guidance on the treatment of trade waste charging. In this context, any trade waste contracts entered into after 1 July 2009 are expected to be reflective of the future pricing objectives in the Water and Sewerage Industry Act 2008 and will bind the regulated entity in future price determinations. The submission required under 7.5 is to assist in the first review of the Interim Price Order and to help inform pricing regulation development.]

8. Fluoridation Revenue Recovery

- 8.1. An allowance to recover the efficient costs associated with providing fluoridation services is embedded in the municipal area customer caps provided in the Schedule for each regulated entity.

- 8.2. By 1 September 2010, the regulated entities are to complete a valuation of fluoridation assets and provide this advice to the Treasurer along with associated costs to inform future reviews of the Interim Price Order.

9. Wastewater Re-use Assets

- 9.1. By 1 September 2010, the regulated entities are to complete a valuation of re-use assets and provide this advice to the Treasurer along with associated costs to inform future reviews of the Interim Price Order.

10. Customer Service Procedures and Interim Standards of Customer Service

- 10.1. Where, immediately prior to 1 July 2009, a customer of a council or bulk water authority was connected to water infrastructure or sewerage infrastructure that, from 1 July 2009, will be owned by a regulated entity, that regulated entity must continue to provide the water or sewerage service, unless varied through a Customer Contract.
- 10.2. Where, prior to the regulated entity commencing operation, a level of customer service relating to the provision of a water or sewerage service was prescribed in a contract or was articulated through a service charter or other policy or regulatory instrument, no lower standard can be provided.
- 10.3. By 1 July 2009, each regulated entity is to develop and publish the following interim standards of customer service:
 - (a) contact details for customers (phone numbers, website details, email addresses, facsimile numbers); and
 - (b) inquiry and complaints handling processes consistent with the relevant Australian Standard; and
 - (c) a policy that provides for payment plans to be offered to customers experiencing payment difficulties; and
 - (d) a process for referring unresolved complaints to the Ombudsman consistent with sections 76 and 77 of the *Water and Sewerage Industry Act 2008*.
- 10.4. The regulated entities are to apply the elements developed under 10.3 until such time as alternative arrangements under the Customer Service Code that will be developed by the Regulator come into effect.

11. Information Provision

- 11.1. The regulated entity is to provide the following audited financial information on a financial year basis to assist the Treasurer in the reviews of the Interim Price Order:
 - (a) most recent operating and maintenance expenses, split between water services and sewerage services and also split between labour and non-labour costs;
 - (b) annual and three year budgets and financial operating plans;
 - (c) three year capital expenditure programs on a project basis, indicating relative priority, estimated annual cash flows and the split between water and sewerage;

- (d) current and projected customer connections by service and municipal area, consistent with the capital expenditure program;
- (e) working capital requirements, where possible, based on detailed credit terms, billing arrangements and inventory levels;
- (f) actual and expected income tax equivalent payments and dividends;
- (g) actual revenue outcomes for the preceding period and, where possible, split between revenues recovered from residential, commercial and industrial customers; and
- (h) water usage volumes by customer class.

11.2. With the exception of information in relation to customer connections, the data required under section 11.1 should be apportioned by municipal area. However, actual and projected customer connection data must be provided on a municipal area basis.

11.3. In respect of the information provision for capital expenditure programs, if available, a split of the program between new and renewal investment should also be provided.

11.4. The regulated entity is to provide the information described in 11.1 to 11.3 in projected/budgeted form to the Treasurer by 1 November of each year, with updated information, based where appropriate on actual half yearly results, to be provided by 1 March in each year of the Interim Price Order period.

[The requirement under 11.2 is necessary given the varying degrees of revenue transition required between municipal areas, which is expected to necessitate a continuation of interim pricing on a municipal basis at least into the second year of the Interim Price Order. Where data is not available, modelling of municipal outcomes may be undertaken by allocating regional assets, revenues and costs on the basis of either municipal connections data or historical outcomes as is most appropriate in the circumstances.]

12. Future Pricing Regulation

12.1. Where pricing regulations under the *Water and Sewerage Industry Act 2008* come into effect during the course of this Order, direction to the regulated entity on compliance with the regulations may occur where required through the yearly review of this Order.

13. Compliance with Interim Price Order

13.1. As soon as a regulated entity realises they may not meet a timeframe required under this Order they must notify the Treasurer.

13.2. A regulated entity may write to the Treasurer seeking extension of any timeline included in this Order.

13.3. If, in the Treasurer's opinion an extension is warranted, the Treasurer may vary any timeline to be met under this Order.

13.4. Section 88(4) of the *Water and Sewerage Industry Act 2008* requires compliance with this Order.

Dated this first day of July 2009.

HON MICHAEL AIRD, MLC,
Treasurer.

Schedule 1

Allowable rates of revenue increase for the Tasmanian Water and Sewerage Corporation (Northern Region) Pty Ltd.

2009-10 Financial Year

	Service	
	Water	Sewerage
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Break O'Day Council	10.00	10.00
Dorset Council	10.00	10.00
Flinders Island Council	10.00	0.00
George Town Council	5.65	0.00
Launceston City Council	10.00	10.00
Meander Valley Council	10.00	10.00
Northern Midlands Council	10.00	10.00
West Tamar Council	10.00	5.31

2010-11 Financial Year

	Service	
	Water	Sewerage
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Break O'Day Council	10.00	10.00
Dorset Council	10.00	10.00
Flinders Island Council	10.00	0.00
George Town Council	8.47	0.00
Launceston City Council	10.00	10.00
Meander Valley Council	10.00	10.00
Northern Midlands Council	10.00	10.00
West Tamar Council	10.00	10.00

2011-12 Financial Year

	Service	
	Water	Sewerage
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Break O'Day Council	10.00	10.00
Dorset Council	10.00	10.00
Flinders Island Council	10.00	0.00
George Town Council	7.10	0.00
Launceston City Council	10.00	10.00
Meander Valley Council	10.00	10.00
Northern Midlands Council	10.00	10.00
West Tamar Council	10.00	10.00

Schedule 2

Allowable rates of revenue increase for the Tasmanian Water and Sewerage Corporation (North-Western Region) Pty Ltd.

2009-10 Financial Year

	<i>Service</i>	
	<i>Water</i>	<i>Sewerage</i>
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Burnie City Council	0.00	10.00
Central Coast Council	10.00	10.00
Circular Head Council	10.00	0.00
Devonport City Council	10.00	10.00
Kentish Council	10.00	10.00
King Island Council	0.00	10.00
Latrobe Council	10.00	6.73
Waratah/Wynyard Council	10.00	10.00
West Coast Council	0.00	10.00

2010-11 Financial Year

	<i>Service</i>	
	<i>Water</i>	<i>Sewerage</i>
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Burnie City Council	0.00	10.00
Central Coast Council	10.00	10.00
Circular Head Council	10.00	0.00
Devonport City Council	10.00	10.00
Kentish Council	10.00	10.00
King Island Council	0.00	10.00
Latrobe Council	10.00	8.64
Waratah/Wynyard Council	10.00	10.00
West Coast Council	0.00	10.00

2011-12 Financial Year

	<i>Service</i>	
	<i>Water</i>	<i>Sewerage</i>
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Burnie City Council	4.25	10.00
Central Coast Council	10.00	10.00
Circular Head Council	10.00	0.00
Devonport City Council	10.00	9.85

Kentish Council	10.00	10.00
King Island Council	0.00	10.00
Latrobe Council	10.00	7.02
Waratah/Wynyard Council	10.00	10.00
West Coast Council	0.00	8.02

Schedule 3

Allowable rates of revenue increase for the Tasmanian Water and Sewerage Corporation (Southern Region) Pty Ltd.

2009-10

	<i>Service</i>	
	<i>Water</i>	<i>Sewerage</i>
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Brighton Council	10.00	10.00
Central Highlands Council	10.00	10.00
Clarence City Council	10.00	10.00
Derwent Valley Council	10.00	10.00
Glamorgan/Spring Bay Council	10.00	10.00
Glenorchy City Council	10.00	0.00
Hobart City Council	10.00	10.00
Huon Valley Council	10.00	10.00
Kingborough	10.00	0.00
Sorell Council	0.00	0.00
Southern Midlands Council	10.00	10.00
Tasman Council	10.00	10.00

2010-11

	<i>Service</i>	
	<i>Water</i>	<i>Sewerage</i>
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Brighton Council	10.00	10.00
Central Highlands Council	10.00	10.00
Clarence City Council	10.00	10.00
Derwent Valley Council	10.00	10.00
Glamorgan/Spring Bay Council	10.00	10.00
Glenorchy City Council	10.00	3.82
Hobart City Council	10.00	10.00
Huon Valley Council	10.00	10.00
Kingborough	10.00	0.00
Sorell Council	0.00	10.00
Southern Midlands Council	10.00	10.00
Tasman Council	10.00	10.00

2011-12

	<i>Service</i>	
	<i>Water</i>	<i>Sewerage</i>
Municipal Area Customer Cap (% nominal increase in revenues allowed)		
Brighton Council	10.00	10.00
Central Highlands Council	10.00	10.00
Clarence City Council	10.00	10.00
Derwent Valley Council	10.00	10.00
Glamorgan/Spring Bay Council	10.00	10.00
Glenorchy City Council	10.00	10.00
Hobart City Council	10.00	10.00
Huon Valley Council	10.00	10.00
Kingborough	10.00	0.00
Sorell Council	3.10	10.00
Southern Midlands Council	10.00	10.00
Tasman Council	10.00	10.00

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