

**SUBMISSION TO AUSTRALIAN COMPETITION CONSUMER
COMMISSION**

REVIEW OF WATER CHARGE RULES – ISSUES PAPER

29TH JUNE 2015

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 submits that the water charge rules have been and continue to be very effective in providing guidance for the implementation of water infrastructure charges and termination fees across Queensland. While the rules specifically deal with water charging in the Murray-Darling Basin, it was recognised that a consistent approach had to be implemented across the state. This issue was raised specifically in submissions by SunWater in the preparation of the rules. The Queensland Competition Authority also was guided by the rules in making recommendations for the current price paths for both the SunWater and SEQWater schemes.

The ACCC continues to monitor development of water planning and management charges across jurisdictions however, for a range of reasons, there are significant differences in the approaches that each state is taking. It is difficult to see how these differences can be addressed by the ACCC.

This submission will address the terms of reference on the basis of the application of the water charge rules across Queensland rather than from implementation within the Queensland section of the Murray-Darling Basin. QFF will submit that the water infrastructure charge rules and termination fees will still play an important role in guiding

the ongoing implementation of pricing reforms in Queensland. On the other hand it is considered that the matter of the recovery of water planning and management costs should be left to state jurisdictions given the differences in approaches that each state have adopted and may adopt in the future for the implementation of these reforms.

The following sections will deal with matters raised by the ACCC in sections 4 to 7 of the Issues Paper.

Section 4 General Matters

Opportunities to reduce cost to industry and governments

QFF fully supports the Australian Government's commitment to reduce regulatory burden and particularly to carefully assess the costs and benefits of any additional regulations. The costs of preparing and implementing two five year price paths for SunWater and SEQWater irrigation schemes has been very significant in both time allocation and cost. In both cases the process involved was very comprehensive with commitment of 9 months for the first in 2006 and nearly 24 months for the second in 2012. The cost for the first was about \$5million which was recovered in water charges. It is understood the second involved a similar cost which was met by the State Government. The conduct of both price paths have identified the significant policy issues that need to be addressed in implementing pricing reform for the irrigation schemes in Queensland. Decisions have been made for each price path about the policy issues that need to be addressed as a priority having regard to the impact of reforms on the viability of the schemes. Such comprehensive high cost reviews cannot be justified in the future. The decisions and processes put in place to implement the last two price paths should facilitate targeted price reviews in the future.

QFF submits that the current water charge rules provide an adequate framework to guide pricing reform in Queensland irrigation schemes into the future. However, it is questioned whether it is necessary now to have such a framework defined in regulation.

Basin Water Charging Objectives and Principles

QFF submits that the water charging rules are adequately drafted to address the water charging objectives and principles.

Drafting amendments to improve clarity

ACCC suggests that there may be scope to combine water charge rules into one set of rules and/or combine the water market rules and the water charge rules. QFF believes there would be value in having one set of rules but it is recommended that the ACCC review the need for the rules as a whole or in part. QFF does not consider there would be significant benefit in a Queensland context from combining the water market and water charge rules.

ACCC guidance material

The guidance material published by ACCC is useful and necessary to interpret the rules. This material should be retained if charges are to remain.

Enforcement and compliance approach

As outlined, QFF sees value in the water infrastructure charge rules in providing guidance for the implementation of pricing reform statewide. This framework facilitates a light handed approach to enforcement and compliance which recognises the smaller scale of irrigation enterprises in the Queensland Murray-Darling. QFF welcomes the cooperative approach adopted by the Commission to stakeholder engagement.

Future reviews of the water charge rules

It will be important, as part of this review, for the Commission to give some indication of timing and scope for future reviews. In particular, QFF would see value in the Commission giving adequate forward notice of an appropriate time for the repeal of the rules if it is decided not to take this action at this stage.

Section 5 Water Charge (Infrastructure) Rules 2010

The conduct of the last two price paths in Queensland has provided an opportunity for irrigation customers to gain an understanding about the asset and operating cost structure of the bulk and distribution schemes operated by SunWater and SEQWater. Each price path also allowed significant investigations into the need for and efficiency of services provided by these operators. Despite this there has been a growing concern about the future of the eight major distribution schemes under SunWater's management structures and policies. The previous Queensland Government facilitated strategic due diligence investigations into establishing local management in each of the irrigation distribution schemes. Interim boards were established in each to manage the investigations. The results of these investigations are being considered by the current State Government.

As part of these investigations it has been accepted that bulk operations should remain with SunWater and SEQWater given their responsibilities for providing supply to a range of sectors (urban, industrial, mining and irrigation) and for managing the implementation of water plans in the schemes.

Tiered regulation of infrastructure operators

QFF is supportive of the tiered approach that the Commission has introduced which has allowed the smaller SunWater (non-member) irrigation schemes in the Queensland Murray Darling to be considered under the Part 5 rules. Since then the Queensland Government required the Queensland Competition Authority to advise on the implementation of regulatory charges for defined periods ending in June 2017 for the bulk and distribution

schemes administered by both SEQWater and SunWater. The QCA investigations addressed key policies for pricing reforms and a range of specific issues including the separation of bulk and distribution systems, specific investigation of the prudence and efficiency of assets and expenses of significance, cost allocation to reflect differences in supplying high and medium reliability customers and many other issues specific to each of the schemes. The final determination specifically provided for SEQWater and SunWater to consult on network service plans together with publication of scheduled charges in all bulk and distribution irrigation schemes across the state. The network service plans, in particular, are providing a useful annual record of cost performance for discussion with customers. These plans should also help target issues that need to be addressed in future price reviews.

It would be expected that pricing regulation will continue in Queensland for some time for bulk schemes and, as indicated, arrangements for the management of major distribution schemes is under review. It is expected that the practice of producing network service plans and publication of schedules of charges will continue. However, it is questioned whether it is necessary to continue with the regulations under Parts 3 to 5.

The investigations to introduce local management in the irrigation distribution schemes have highlighted the differences in the approach that member owned operators would adopt to drive cost efficiencies and to bring the schemes onto a viable footing. These operators will continue to require guidance but it is not considered that a heavy regulatory approach is necessary. Also the need for regulation to prohibit price discrimination of any form is questioned. No comments are provided on the issue of an infrastructure owner making distributions as the distribution schemes are unlikely to be in a position to make such distributions for a considerable time.

Accreditation of Basin State regulators

This provision does not apply in Queensland because the Queensland Government continues to provide direction regarding the conduct of the regulation of irrigation prices.

Differences in charging arrangements and their impacts

The approach adopted by the Commission to allow infrastructure operators 'to design their tariff structures and charging arrangements as they see fit' is important. QFF agrees that this is necessary to allow differences between schemes and operators to be taken into account.

There are a range of factors in place in Queensland irrigation schemes that may have impacts on irrigators decisions regarding trading. These factors may arise as result of gaps in the conduct of water planning which is a state responsibility. For example, groundwater planning in an irrigation scheme may not have been completed and this may be influencing the trading and use of surface water. Also trading may be facilitated in some schemes with

the introduction of arrangements for capacity share or peak water access in the summer months. These matters can be addressed progressively but it must be recognised that the priority issues in the initial price paths was to address the implementation of charges that recover scheme costs exclusive of a rate of return on existing sunk assets.

Commercially negotiated charges and third party access regimes

This is a matter for SunWater and SEQWater to address but it is recognised that there is a need for transparency in regard to processes that would be put in place to allow for commercially negotiated charges and third party access.

Regulation of the MDBA or the Border Rivers Commission

It is understood that if either the MDBA or the Border Rivers Commission chose to impose charges directly they would be subject to the application of the charge rules. In both cases it would be expected that the prudence and efficiency of costs are assessed along with arrangements for adequate reporting and consultation. In the case of the MDBA however, there would need to be an independent assessment of the efficiency of the costs to carry forward the planning effort required to implement Murray-Darling Basin Plan.

Transparency of cost pass-throughs

The price paths implemented for both the SEQWater and SunWater schemes have addressed the costs of implementing water planning and management that is the responsibility of scheme operators. Bulk water charges are also passed through in specifically defined tariffs (ie a distribution scheme has a bulk fixed and variable charge compared with a distribution fixed and variable charge) in the current price paths.

Section 6 Water Charge (Termination Fees) Rules 2009

With the separation of bulk and distribution charging in the current price path the QCA examined a range of options to assess a termination fee based upon the fixed charges payable when the termination takes effect. Particular attention was focussed on the proportion of costs recovered over the variations in selected terms. The QCA adopted the recommended termination fee including GST of eleven times the nominal fixed annual distribution charge. QCA imposed termination fees in some high cost schemes that would restrict opportunities for irrigators to take options to trade out of a scheme if they were wanting to address financial problems on farm and within the scheme. These changes may restrict an operator from rationalising sections of a scheme by allowing customers to trade out of the problem section of the scheme.

Section 7 Water Charge (Planning and Management Information) Rules 2010

QFF submits that there are significant difficulties to developing a consistent approach to the implementation of water charges given the significant differences in the way jurisdictions are implementing water planning and related activities to maintain the health of natural

ecosystems and to address environmental externalities. There is also the added difficulty of addressing the need for and efficiency of different planning systems and accounting for cost recovery from varied polluters or the beneficiaries from aspect of regulatory reform.

Conclusion and Recommendations

QFF submits that a consistent approach to water pricing within irrigation schemes is now in place in Queensland facilitated by the implementation of the Water Charge Rules. It would be expected that there will now be a refinement of the regulation of water pricing in this state based upon achieving greater efficiency and effectiveness in the price setting process and addressing targeted issues of importance.

It is recommended that the ACCC now give priority to reducing regulatory controls for water infrastructure charges and termination fees within the Basin.

As little is to be gained from continued monitoring of the application of water management charges, it is recommended that State Governments should retain responsibility for setting the direction for how they chose to recover the costs of water planning and management and associated natural resource management issues.