

Regulatory Framework design – summary

Proposed reforms to the *Water Supply and Sewerage Services Act 2000*

Reform area	Reform direction	Regulatory Framework design	Legislative requirements	Issues to resolve
Strengthening customer protections	Improve customer protections to ensure they are: • transparent and accessible to customers • set through an appropriate process • subject to regulatory oversight by the Utilities Commission (UC).	Enhance oversight of PWC's licences and customer contract. This could involve the UC: • periodically reviewing (for example, every 5 years) the terms and conditions of PWC's licences and customer contract, through a public process that involves consultation with PWC, its customers and other stakeholders • determining (or recommending to the minister for approval) the terms and conditions of PWC's licences and contract through this review • applying a risk-based approach in annually auditing and reporting on PWC's compliance with its licences • PWC's separate water and sewerage service licences would also be consolidated into one licence to enhance transparency and promote an integrated approach to water cycle management.	• WSSS Act would need to be amended to allow the UC to review and approve PWC's customer contract (or review it and make recommendations to the minister regarding its approval). • Changes to the WSSS Act should not be too prescriptive to allow for flexibility in implementation.	• Details of the customer contract and licence review, approval and audit processes to be followed, including timeframes and the respective roles and responsibilities of the UC, the minister and PWC in these processes. • Detailed guidance on implementation should be determined administratively by the UC, allowing for changing circumstances and stakeholder consultation in developing and finalising such guidance.



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Formalising standards of service	- Strengthen the framework to determine standards of service. - Determine and publish formal standards of services.	Service standards should address day-to-day service performance standards (such as planned and unplanned supply outages or sewerage blockages) and long-term supply reliability objectives. Build on existing provisions in the WSSS Act that allows the minister to specify minimum standards and for these standards to be reflected in the utility's licence, by developing a framework that allows the UC to: - recommend service standards to the minister, following a public review process, including consideration of stakeholder views and the utility's proposed service standards - require the utility to periodically report on its performance against the service standards, to enhance transparency for customers and other stakeholders - audit the utility's performance against or compliance with the service standards and other requirements of its licence, and report to the minister on this performance/compliance - periodically review service standards (as part of periodic reviews of all licence conditions), to recommend any proposed changes to the minister.	- In principle, the framework could be implemented without legislative change. However, the minister has not set minimum standards as envisaged under the WSSS Act, nor does it appear the UC has recommended minimum standards to the minister. - One option would be to amend section 45 of the WSSS Act to state the minister 'must' rather than 'may' specify the minimum standards a licensee must meet in providing water supply or sewerage services to customers.	Detail of the framework for setting, reviewing, and assessing and reporting performance against service standards. Subject to the minister's approval, this should be determined administratively by the UC, to allow for flexibility and stakeholder consultation (including with PWC) in developing this framework.

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Transparent planning and investment decision-making	• Increase the transparency and accountability of the service provider regarding medium to long-term planning. • require the service provider to demonstrate it has considered all options (infrastructure and non-infrastructure solutions) when making long-term investment decisions, and identified the most efficient and prudent options.	• PWC's licence to include requirement to undertake sound long-term planning and other measures consistent with prudent and efficient investment decision-making. • The UC would provide guidance and set expectations for planning and investment decision-making that considers: ○ growth in network and customer connections ○ water supply needs, including adapting to climate change and ensuring the water supply system is suitably resilient ○ changing community expectations or regulatory requirements for performance standards and environmental outcomes ○ managing ageing assets ○ processes for regularly updating the long-term plans for new information and risks ○ collaboration with government and other stakeholders. • As part of a pricing review and auditing performance against the licence, the UC would assess whether PWC has: ○ robust long-term planning informed by external factors such as climate variability, population and other demand drivers, to optimise maintenance, replacement and augmentation of its infrastructure ○ adequately considered all reasonable infrastructure and non-infrastructure investment options ○ operated prudently and efficiently, informed by appropriate standards of services ○ invested and operated infrastructure in the long-term interests of customers ○ investment decision-making processes and practices consistent with prudent and efficient expenditure decisions (for example, it undertakes sound business cases and options analysis where appropriate).	• Planning and investment decision-making requirements to be included in the service provider's licence, rather than the WSSS Act. • UC provides guidance on its expectations for planning and investment decision-making to assist the service provider in demonstrating its proposed expenditure allowances are prudent and efficient as part of a price review, and it is compliant with its licence requirements. This guidance can then evolve in line with the service provider's regulatory maturity.	• Confirmation of the specific planning and investment decision-making requirements to include in PWC's licence(s). • The content and form of the UC's guidance to PWC on its expectations for planning and investment decision-making, to assist PWC in demonstrating its proposed expenditure allowances are prudent and efficient as part of a price review, and it has complied with relevant provisions of its licence.

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Transparent cost of service provision	• Increase transparency of current and efficient costs of water supply and sewerage services. • Develop a transparent, consistent and incentive-based methodology for assessing efficient and prudent costs, and informing decisions on regulated revenue or prices the service provider is permitted to charge customers.	Formalise the role of the UC in assessing PWC's efficient costs and either recommending prices to the minister or determining prices independently, subject to government policy. Under either approach, the UC would outline its principles, methodologies and processes for assessing efficient costs and recommending or determining prices based on best practice: • UC develops guidelines on its approach to determining expenditure allowances and prices, which would inform the information the service provider must provide as part of a pricing review and determination • the guidelines would cover: ○ the approach to determine the revenue requirement over the determination period based on the building block method, including allowances for efficient operating expenditure, return on assets, return of assets (depreciation), working capital allowance and tax ○ the initial regulatory asset base (RAB) is to be determined by the government and form a line in the sand for future determinations ○ forecast demand and customer numbers, with the methodology used to derive these forecasts to be provided by the service provider for consideration by the UC ○ the service provider proposing appropriate forms of price control consistent with the promotion of efficiency and other regulatory, commercial and customer interests ○ pricing structures to be consistent with best practice principles, including the National Water Initiative's Pricing Principles ○ potential impact of prices on customers and the business as a 'sense check' (including a finance-ability test). ○ the UC's expectations regarding PWC's engagement with its customers to inform its expenditure and service decisions, and its price proposal • the guidelines would be periodically reviewed and updated by the UC, commensurate with the capabilities, resourcing and regulatory maturity of the service provider • the UC would undertake a transparent and consultative price review process, including clear specification of the rationale underlying regulatory decisions.	• Legislative changes depend on whether the UC has a recommendation or determination role. • A determination role will require changes to section 60 of the WSSS Act to allow a determination by the UC rather than a Pricing Order issued by the minister. • The methodology applied by the UC should not be prescribed in legislation as best practice methodologies evolve over time. • The UC's price recommendations or determinations should be largely governed by the high-level objectives and guidance specified in the UC Act and WSSS Act. • If the UC is given a determination role, provision could be made in the WSSS Act for the minister to issue a direction or similar instrument setting out additional objectives or considering a prescribed pricing policy, such as uniform tariffs.	• The detail and form of guidance material to be developed by the UC (in either its role in recommending or determining prices, or elements of the pricing methodology). • The detail of the process to be followed in a price review, in terms of expectations regarding PWC's price proposal or submission and steps in the process, including customer and community engagement. • Whether the UC will have a price determination or recommendation role, including how this may change over time (for example, potentially evolve from a recommendation to a determination role).

Water conservation	• Ensure water conservation initiatives are routinely considered as part of the service providers' planning and investment decision-making processes. • Improve governance and regulatory arrangements for planning compulsory water restrictions to increase transparency and ensure planning for restrictions supports standards of service.	• Water conservation initiatives to be considered as part of the service provider's planning and investment decision-making (for example, considering the economic level of leakage or recycled water schemes) as a licence condition or part of the abovementioned guidance on expectations for prudent and efficient expenditure. • Efficient and transparent water conservation planning, governance arrangements and initiatives as a licence condition. For example, this could include licence requirements for PWC to: ○ develop and periodically update a water conservation plan and water shortage response plan, which outline: ▪ how PWC ensures appropriate consideration of, and efficient investment in, water conservation initiatives ▪ when restrictions may apply in response to water shortages, and the process for implementing and applying such restrictions ○ engage and collaborate with other governance bodies or agencies in considering water recycling options and water shortage response measures. Role of water usage prices Water usage prices can play an important role in promoting water conservation by signalling to customers the true cost of water and allowing service providers to determine the optimal level of investment in water conservation measures. This could involve setting the water usage price with reference to the estimated long run marginal cost of supply (defined as the cost of supplying an additional unit assuming all factors of production can be varied). The process for setting water prices (whether UC determines or recommends prices to the minister) will need to be tested with government. Regardless of the approach taken, the minister would be able to retain the ability to set policy direction on prices, for example maintaining uniform tariffs across the Territory.	Given the proposed enhancements to PWC's licence review and approval process, including the framework for determining service standards, and development of guidance material by the UC on the expenditure and price review process (which are discussed in sections above), there should be no additional requirements for legislative amendment.	• The detail of licence requirements and UC guidance related to water conservation, which can be developed by the UC in consultation with PWC and other stakeholders. • The status of key inputs and information PWC and UC will require to determine optimal levels of investment in water conservation and assess the merits of potential water conservation initiatives and projects, including the water supply level of service, supply system yield relative to forecast demand, and long run marginal cost of water (and potentially wastewater) supply. Notably, this also will likely inform the abovementioned licence requirements and guidance material. • Confirmation of the government's position on permitted uses of recycled water (and hence the potential role of recycled water as a water supply source). • Whether there is sufficient clarity on roles, responsibilities and protocols around water restrictions, and if or when these are required.
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Fit-for-purpose regulation across the Territory	- Extend regulation to the whole of the Territory and introduce a tiered system with small service providers (or small service areas) subject to a subset of regulatory requirements. - The specific requirements will be developed in consultation with stakeholders and introduced later.	A flexible and tiered approach to economic regulation is proposed to encompass: - full economic regulation for large service providers (PWC) – as discussed above - proportionate economic regulation for small service providers focusing on key protections and requirements to deliver the most benefits to customers and the community at least regulatory cost. It is proposed that all small service providers be required to be licensed by the UC (except for certain self-supply, including Homelands, and on-supply arrangements such as body corporates) but would not be subject to formal price regulation by the UC. The licensing provisions in the WSSS Act that will apply to small service providers will be tailored to reflect the specific circumstance and scale of the small service provider in question. This would be given effect through the WSSS Act requiring the UC to consider the nature and scale of the operations of water service providers when determining or recommending licence conditions.	- WSSS Act to be amended to make the small water service providers subject to licensing by the UC. This could be achieved by removing division 3 of the Act, relating to water supply and sewerage service areas, which would result in all water supply and sewerage service providers being required to hold a license under section 14 of the Act. - In order to provide for the annual public reporting by the UC of water service providers' performance, an obligation could be included in the WSSS Act similar to section 45 (b) of the <i>Electricity Reform Act 2000</i> that requires the UC to 'review and report to the minister on the performance of the Territory's power system'.	A detailed review of the appropriateness of the licensing provisions of the WSSS Act for small service providers would need to be undertaken in consultation with stakeholders.

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Proportionate regulation for small service providers	• Implement light touch regulation. • Ensure development and implementation of regulatory arrangements are informed by: ○ advice from service providers on their current capability and service provision arrangements ○ engagement and consultation with stakeholders.	Enhanced transparency of service provision and outcomes for customers and the community Require the UC to publicly report to the minister on the performance of service providers in the Territory to identify any problems that may require close attention and remedial action, or priority areas for improvement. This reporting should focus on key risks to customers by looking at service outcomes such as: • water quality and supply reliability and security – including, for example, compliance with Australian drinking water guidelines and standards, number and duration of planned and unplanned supply interruptions, duration and severity of water restrictions, and number of complaints • wastewater service reliability and quality – including, for example, compliance with environmental regulatory requirements, number of sewage overflows and sewer main breaks, and number of complaints. This report could be along similar lines to the annual Northern Territory Power System Performance Review published by the UC. UC could determine information to be collected and published in consultation with the water service providers. This would need to be tailored to service providers and may evolve over time, but at a minimum should focus on key risks to customers relating to water and wastewater service quality, reliability and security. Key customer protections Ensure customers of the small service providers have similar basic customer protections as those provided to customers of PWC. It is proposed small service providers be required, as a licence condition, to develop a customer contract setting out the rights and responsibilities of customers and the licensee regarding water and sewerage services, including arrangements for dealing with complaints and resolving disputes. A customer contract should be written in easily accessible language with fair and reasonable terms and conditions of service, and small service providers could be required to prepare a summary of the customer contract in a form approved by the UC and distribute a copy of the summary to each of the licensee's customers.	Requirements under proportionate regulation could be enacted through licence conditions.	Small service providers will need to be consulted in the development of regulatory requirements and transition arrangement may be required to allow a gradual uplift in service provider capability.