

Consumer engagement: International developments and ideas for water regulation in Victoria

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Outline

- Summary of arrangements and developments in North America and Great Britain.
- Stephen Littlechild's suggestions.
- Consumer engagement in water in Vic: my perception of the status quo.
- Ideas for further consideration.

North America

- In parts of US & Canada, user groups and utilities negotiate a settlement
- Settlements usually cover pricing: may also cover investment and other issues.
- Typically the settlements are accepted by the regulator, so no need for a formal hearing and regulatory decision.
- Recently, federal and state commissions have taken an active role in facilitating settlements.
- But some riders:
 - North American rate cases are typically relatively simple – based on actual costs in a recent test year - do not look ahead for five or more years,
 - Customers and users now well familiar with the processes and issues. They are adept at participating in a litigated process and in a negotiated settlement.

Great Britain – energy

- RPI-X deemed a success in many ways but had become increasingly onerous
- Various changes adopted in Revised “RIIO” approach one of which was to promote consumer involvement in defining outputs.
- Suggested “fast-tracking” distributor proposals through process if customers supported company proposals.
- Considered but rejected negotiated settlement (Ofgem concerned that diversity of consumer views could not be effectively represented and said that consumer groups did not want it anyway).

And in practice ...

- RIIO approach first implemented in the Transmission Price Control Review (RIIO-T1): 2 of 4 companies’ revised plans fast-tracked but customer engagement played a relatively small part in the overall decision.
- RIIO in gas distribution: no fast track and no reference to customer engagement
- RIIO in electricity distribution: 4/14 of fast tracked but customer engagement not the critical factor

England & Wales– water

- Like Ofgem, Ofwat also concerned about several aspects of price control review process:
 - Regulators setting company business plans
 - Minimal role for views of customers
- Suggested fast track as incentive for companies to get customers' support; Customer Challenge Group at each company

And in practice ...

- Customer engagement went very well
 - Good challenge to large/incremental projects
 - Business plans geared to meet customer preferences – changed company behaviour
- But only 2 companies given enhanced status: Customer engagement necessary but not sufficient
- Regulators used process to provoke/assess maximum feasible cost reductions
- Customer engagement did not seem to be at the centre of either price control review process: helpful and welcomed by all but not critical in determining which companies were fast-tracked, or in setting prices.

Scotland – water

- Regulator concerned about adversarial price control process; convinced better way to regulate involving consumers.
- Regulator (WICS), water company and Scottish consumer group jointly created Customer Forum (9 members: 5 persons “strong customer focussed reputation”, 1 chamber of commerce, 2 retailers, Chair former politician)
- Enthusiastic & effective participation by all
 - Pushback on company research
 - Deeper understanding of customer preferences
 - Input into development of company’s draft business plans
- Then regulator asked Forum to seek to agree Business Plan with Scottish Water, consistent with regulatory guidance: About 25 Guidance Notes, on various issues including opex, capex, finance, environmental.
- Regulator set tramlines about future water company performance
 - Adjustment/sharing if unexpected performance
 - Gave assurance to parties
 - And led to focus on monitoring over next period

Scotland water outcomes

- Forum and company agreed Business Plan
- Regulator's determination consistent with Business Plan
- Scottish Water changed approach:
 - thinking, projects, explanation, more sensitive to customer needs, more open to lower price settlement
- Better outcome for customers, including new customer service measures; nominal price cap 1.6%~3yrs within CPI-1.75%~6yrs

Stephen Littlechild's questions and conclusions

- UK regulators looking for light-handed, customer-oriented way to set price controls. Can customer groups decide what price controls are acceptable? Can a competitive market process be used to set price controls and what role should the regulator play in promoting such competition?
- Ofwat & WICS have tried different forms of customer engagement in water sector. Achievements but still big regulatory input
- Takes time to develop interest and thinking in new regulatory approach (10 years in GB energy but 5 years in water)
- Getting “buy-in” from all participants is important, as is tailoring the approach to the particular conditions and regulatory framework of each industry.

Consumer engagement in water regulation in VIC

- Over last few years, progressively greater involvement of consumers in regulatory process, particularly in revised WIRO
- ESC keen to find ways to increase customer involvement in price setting:
 - Like GB regulators, ESC keen to get away from prescription and defacto role in industry governance
 - Recognises progress to-date, but keen to go further

Vic customer groups' perspectives (as we are told)

- Bouquets for:
 - ESC's increasing focus on customer empowerment;
 - Efforts made by some companies to engage with customers;
- Brickbats for other companies: consumer engagement = “gathering yes-men around the table to have a sandwich”.
- Customer groups often deluged with requests to engage, but limited capacity to respond
- None of the customer groups have access to technical assistance; do not obtain legal, engineering, economic or accountancy advice in the course of their water customer advocacy work.
- All of the groups said that resource constraints meant they had limited ability to critique the technical information put before them or actually engage in the technical content of issues.
- This means that consultation often reduced to “tick-a-box”

Ideas to strengthen customer engagement:

1. Customer Advocates' Advice Centre

- If customers are to be more seriously engaged they will need to be appropriately resourced.
- Wider representation to also include industrial, commercial other residential customers would be valuable.
- Establishment of a “customer advocate advice centre” to strengthen the technical assistance available to customer advocates.
 - Small permanent staff; responsible for compiling and publishing information that customer advocates are likely to find useful. This could include information on prices, tariffs, regulated revenues, water company expenditure, industry profits, regulated asset values, quality of supply and service information. The centre might also be able to provide or procure research on relevant regulatory issues.
 - Focussed on providing technical assistance rather than itself representing customer interests to companies, regulators and other parties.
- Funding for such an advisory centre from variety of possible sources.

Ideas to strengthen customer engagement:

2. Consumer Challenge Panel?

- Australian Energy Regulator's CCP has two duties:
 1. To act as a “critical friend” to the AER, based on the Panel's view of customers' interests;
 2. To advise the AER on its view of how the companies have consulted with customers.
- CCPs were also used by Ofwat and Ofgem.
- Not clear that a “challenge panel”, focussed on ESC rather than consumers would be helpful in ESC context.
- Perhaps preferable to find way for customer groups to engage directly with the ESC about how they feel that they have been consulted and about the extent to which companies responded to their concerns, than for this to be filtered through others.

Ideas to strengthen customer engagement:

3. Greater interaction between ESC and customer groups ?

1. ESC's approach, similar to AER's, is to provide guidelines on how companies should interact with customer groups, and leave the companies to it.
2. Experience of this approach in energy regulation in Australia is not encouraging: consumer groups recognise greater efforts by some companies but invariably feel that customer engagement has not been meaningful.
3. Conversely in GB, customers seemed to support the water and energy companies' business plans but the regulators rejected the plans.
4. Deeper interaction between ESC and customer groups (in addition to interaction between consumer groups and companies) may help to ensure that each can communicate to the other what they consider to be important. Useful but only part of the picture.

Ideas to strengthen customer engagement:

4. Incentives for companies to obtain their customers' support ?

- E.g. Ofwat and Ofgem “fast tracking” if customers support
- Since advantageous terms promised to the fast-tracked companies would be paid for by, some questioned whether the outcomes were necessarily in the interests of customers.
- Incentive to engage are likely to result in greater effort to secure customer support. But if the customer groups are not adequately equipped to drive a suitably hard bargain, then such incentives may not be in customers' interests.
- GB experience not entirely persuasive: seemed to be more successful in water than energy, but somewhat problematic in water as well.
- Victoria's water sector is diverse, companies' priorities may differ and so incentives need to be designed accordingly. Incentivising companies to effectively engage with consumers may be helpful but may be complex and GB experience not entirely persuasive.

Ideas to strengthen customer engagement:

5. Direct negotiation between customer groups and companies

- The most “ambitious” approach and will require concerted effort if it is to succeed.
- **Scope of negotiation?**
 - Given inexperience and possible reservations by companies, customer groups & regulator, narrowing the scope of negotiation may enhance the prospect of agreement between companies and customer groups.
 - Maybe start with service targets, tariff structures, major projects (or aspects thereof).
- **Customer representation?** Who, and how to co-ordinate?
- **Equipping customers?**
 - Effective negotiation helped if both parties have something to gain from agreement. Customer groups suggested reticence about settlements since they did not feel sufficiently skilled or adequately resourced to negotiate with the water companies.
 - ESC staff may provide some of this technical assistance? Customer groups may also wish to have access to technical assistance that they are able to direct.

Ideas to strengthen customer engagement:

5. Direct negotiation: Issues for consideration

The ESC's role

- Settlements in Scotland, Ontario, Florida, Alberta and federally in the United States point to significance of the regulators in setting up the arrangements, structuring and managing processes and providing customers with technical assistance and guidance. To implement negotiated settlements in Victoria, we would expect ESC would take the lead in:
 - Facilitating establishment of a “customer forum” or similar entity;
 - Establishing scope & process for negotiation;
 - Ensuring customer participation is funded;
 - Providing technical assistance to customers (or ensuring its provision by others);
 - Providing “tram-lines” to both parties in the negotiation
 - Explaining how it would treat settlements presented to it (and what it would do if settlement is not achieved).