

14 April 2009

Dr Ron Ben-David
Chairman
Essential Services Commission
Level 2
35 Spring Street
MELBOURNE VIC 3000

Dear Dr Ben-David,

Please find enclosed South East Water's response to the Commission's Inquiry into an Access Regime for Water and Sewerage Infrastructure Services.

South East Water's response is divided into two parts, South East Water's approach to access in general, as well as responses to the questions posed by the Commission.

South East Water appreciates the opportunity to participate in this inquiry and has previously indicated its support for the establishment of a state based third party access regime, as part of the Victorian Competition and Efficiency Commission Inquiry into Reform of the Metropolitan Retail Water Sector.

South East Water considers that the development of access pricing arrangements conducive to efficient outcomes is essential and looks forward to participating in the Commission's consultation process to ensure that this is achieved.

Should you require any information in addition to the attached, please feel free to contact Ian Johnson, General Manager Regulation on 9552 3725 or ian.johnson@sewl.com.au.

Yours sincerely



Shaun Cox
Managing Director

South East Water response to:

**Inquiry into an Access Regime for Water and Sewerage
Infrastructure Services**

Issues Paper

April 2009

Contents

1. Background	3
2. Objective	3
3. Introduction	4
4. Types of Access	5
4.1 Retail Competition	6
4.2 Bulk/network Competition	7
5. Coverage	7
6. Level Playing Field	8
7. Pricing	9
7.1 Cost of Service	9
7.2 Retail Minus	10
7.3 Ringfencing	11
8. Greenfield Sites	11
9. Water and Sewage Quality	12
10. Measurement	12
11. Retailer of Last Resort	13
12. Dispute resolution	13
13. Appendix 1 – Responses to Questions Posed by the Issues Paper	14

1. Background

In August 2007, the Victorian Treasurer asked the Victorian Competition and Efficiency Commission (VCEC) to undertake an inquiry into reform of the metropolitan retail water sector.

VCEC undertook a consultation process and the inquiry concluded when VCEC's final report and the Government's response was released in July 2008.

The Final VCEC report recommended the development of a state based access regime and this finding was endorsed by Government. As a result the Government has referred a terms of reference to the Essential Services Commission (Commission) for an inquiry into the development of a state based access regime for water and sewer infrastructure services, including access pricing methodology.

At the time that the VCEC inquiry was announced, the Victorian water industry was in the process of considering its pricing and tariff models for the forthcoming five year period. This process was postponed and the industry is now in the final stages of confirming its prices and tariff structure for the four year period to 2012/13.

While the Commission's Issues Paper raised a number of questions, this response comprises two parts – a general discussion in relation to South East Water's approach to third party access and responses to the questions asked, reflecting South East Water's approach to access in general, rather than specific types of access applications (refer to Appendix 1).

2. Objective

There are a number of reasons why the Government endorsed the VCEC inquiry recommendation in favour of the development of a state based third party access regime, including to:

- Promote the efficient operation, investment in and use of infrastructure;

- Maintain the ability of all parties to comply with legislative and other regulatory requirements;
- Provide consistency and certainty in relation to the terms under which access can be sought;
- Facilitate innovative supply side solutions; and
- Ensure that longer term reform in the water industry is not inhibited.

The Victorian Government intends to seek certification of the access regime from the National Competition Commission.

3. Introduction

South East Water has previously indicated its support for the establishment of a state based third party access regime, provided that it incorporated pricing arrangements conducive to efficient outcomes. South East Water continues to hold this view.

Given that third party access can already be obtained via Part IIIA of the Trade Practices Act (as per Services Sydney), South East Water would prefer to establish a state based regime to provide certainty to both infrastructure owners and access seekers. However, South East Water considers that the intended implementation of a state based regime does not rule out negotiated access on reasonable terms in the interim. For example, the current arrangements between South East Water, Topaq and Melbourne Water for the provision of Class A recycled water indicate that an arrangement is able to be reached to the benefit of all parties.

More importantly, South East Water considers that the implementation of a state based regime is an important exercise in ensuring that access can occur on the basis of a level playing field for all parties.

In summary, South East Water sees the introduction of a state based third party access regime as a way of managing a number of often conflicting priorities. For example,

- The rights of third parties to access natural monopoly assets;
- Opportunities for efficiency improvements;

- The need to charge customers a cost reflective price;
- The obligation to assist disadvantaged customers;
- Consistent (postage stamp) pricing across the customer base;
- Maximising opportunities for innovation and private sector involvement;
and
- The need to ensure financially viable water businesses.

The most important consideration when developing an access regime is realising benefits, while ensuring that the risk profiles of incumbents are unchanged particularly in the areas of:

- Water quality;
- Environment;
- Asset integrity;
- Capacity requirements;
- Consumer protection;
- Occupational health and safety;
- Management of hardship customers; and
- Financial Viability.

An access regime should also not impose unnecessarily high transaction, administrative and compliance costs on either party. That is, the development of an access regime should not impose an additional layer of bureaucracy.

4. Types of Access

Under a competitive model, agreements are often needed to define the relationship between participants at different levels of the supply chain. These agreements are generally not required when participants are largely vertically integrated or operate under a similar ownership structure. Once new entrants become involved, “use of

system agreements” may be required to define the financial and information flows that will be necessary.

In addition to access for the purposes of retail or wholesale competition, there may be access applications for a specific duration – either short or long term. The standards, terms and conditions contained in the agreement between the incumbent and access seeker may need to be changed to reflect access applications of a fixed duration.

4.1 Retail Competition

The following examples of access involve retail competition:

- A third party seeking to introduce a new source of water for onsale to existing or new customers; and
- A third party looking to contract with upstream customers (existing or new) for sewage disposal for the purpose of downstream extraction and use.

These examples involve a third party in the relationship between the infrastructure owner and customer. Given the current water industry model of integrated retailers and distributors, this type of access will involve the development of systems and processes to facilitate a relationship between the access seeker and the infrastructure owner. This arrangement would normally take the form of ‘Use of System Agreement’ which would provide certainty over:

- Communication protocols for day to day activities such as fault reporting, provision of metering data, billing and customer generated data transfer requirements such as change of occupant advise and special reads; and
- Provisions for guarantee of payment. Should a third party make an arrangement to provide services to an end customer, that party would need to bear the risk of that customer defaulting. This third party would also need to guarantee payments to upstream service providers.

An access arrangement that involves retail competition will also need to resolve the procedures to be followed should a new entrant fail financially. These arrangements

have been put in place in the energy sector and often involve allocating the role of retailer of last resort (ROLR) to one retailer and specifying the terms under which customers will be reallocated to that retailer should a failure occur.

4.2 Bulk/network Competition

The following examples of access involve competition at the bulk or network level:

- A third party seeking to use an infrastructure owner's network to transport a new water supply from point A to point B for its own use;
- A third party looking to extract effluent from a sewer pipeline for own use or onsale ie sewer mining; and
- A third party looking to contract with upstream (existing or new) customers for sewage disposal for the purpose of downstream extraction and disposal.

In this case an agreement is likely to be required between the storage operator, grid manager, bulk network provider, distribution infrastructure owner and any third party to establish the technical standards for access and the quality parameters for the water to be introduced or the sewage to be withdrawn.

5. Coverage

The standard test for access includes a 'test of significance'. While it is not yet certain whether some assets will be declared at the commencement of the regime or whether all assets will be considered on an individual basis as an application is received, the Commission needs to develop a consistent methodology for assessing the significance of services. This could be done with reference to the criteria adopted in the NSW regime.

While water and sewer transport assets would appear to meet most criteria and are the assets that may be of most interest initially to access seekers, further thought should be given to other assets such as major dams and treatment plants. Ideally, South

East Water would prefer access to be implemented incrementally to ensure a smooth transition and to ensure that the assets that can offer the greatest net benefit are opened up first. However South East Water recognises that requests for access from new participants are likely to be relatively unpredictable depending on perceived customer requirements and opportunities for innovation.

6. Level Playing Field

There are two reasons to ensure that access occurs on the basis of a level playing field.

Firstly, should an access seeker wish to enter into a supply arrangement with customers (ie retail competition), these customers should be confident of receiving the same minimum standard of customer service as existing retailers are required to deliver.

Therefore South East Water would expect that an access seeker would need to be subject to the same water industry regulatory requirements as existing retailers. For example:

- Obtain a retail licence – this may require unbundling of existing combined retail/network geographic based licences;
- Be issued and comply with a Statement of Obligations;
- Participate in the Energy and Water Ombudsman Victoria Scheme;
- Comply with restrictions;
- Be required to achieve demand management targets;
- Publish a Customer Charter;
- Provide a call centre service;
- Provide customers with hardship support where necessary;
- Submit to the Commission's Comparative Performance Report process;
and
- Share the burden of charges and levies payable to Government.

Note, this could be achieved by either applying the current obligations to all parties or revising any problematic regulations as they apply to all participants in order to enhance innovation.

Secondly, to ensure their financial viability, incumbent retailers should be able to compete for customers on an equal footing. Should it be the case that access seekers are not required to meet the above regulatory requirements, they will be able to offer services at a substantially reduced price.

7. Pricing

There are a number of potential methods for developing access prices as discussed by the Commission in the Issues Paper including cost of service and retail minus.

7.1 Cost of Service

Pricing under this approach would involve providing an access seeker with a price based on a building block approach specific to the assets to which they require access. This pricing methodology increases pressure on incumbents to make prices to end customers more cost reflective which could be problematic in a regulatory environment based on 'postage stamp' pricing.

South East Water does not support this pricing methodology as it:

- Requires significant work to provide an in depth analysis of costs depending on the point of access proposed;
- Provides opportunities for access seekers to "cherry pick" less costly to serve customers who are currently being charged on the basis of postage stamp pricing; and
- Will result in prices for remaining "more costly to serve" customers increasing.

Should this form of access pricing be considered, the incumbent retailers will need more flexibility to adjust retail prices to cost reflective levels both across their geographic areas and between tariffs and tariff components. This is particularly the case given the recent across the board price increases applied by Government in order

to give the VCEC time to finalise its report. These increases have had the effect of moving some tariffs away from cost reflectivity.

The pressure towards cost reflectivity under this form of pricing needs to be weighed up against the need to ensure that end customers are charged in a relatively consistent manner, are able to understand the basis for their charge and the costs of managing customer accounts and billing are minimised.

7.2 Retail Minus

This approach involves applying the regulated retail price to the access seeker with adjustments for the costs avoided by the infrastructure owner (eg impending augmentation) and the costs resulting from access (eg connection).

South East Water supports this pricing methodology as:

- It preserves the current postage stamp pricing methodology which ensures that all customers in a particular category are charged the same tariff regardless of the cost to serve;
- Does not preclude the gradual removal of pricing anomalies over time;
- Discourages new entrants from “cherry picking” customers; and
- Is consistent with the ACCC determination in the Services Sydney case and forms the basis of NSW’s state based access scheme pricing.

An alternative or case by case approach will need to be out in place for the small number of specific circumstances where retail minus pricing may not be applicable. For example:

- Sewer mining where the retail price for collection and treatment has already been paid to the retailer by customers. In this circumstance the incremental and avoided costs will need to be recovered from the access seeker; and
- Where access is sought to a Melbourne Water asset only. In this case the published Melbourne Water wholesale price could be used as a starting point for pricing instead of the retailer price.

7.3 Ringfencing

Regardless of the pricing methodology ultimately implemented, South East Water will need to undertake work to ensure that its costs are appropriately ringfenced.

Ringfencing was also a recommendation of the VCEC Inquiry that was supported by Government.

South East Water notes that the Commission is reviewing the Regulatory Accounting Code at the same time as they are undertaking this Third Party Access consultation process. South East Water recommends that rather than making multiple changes to the Regulatory Accounting Code, the Commission defer final recommendations until the access regime review is completed.

South East Water would like to participate in an across industry consultation process to firmly establish ring fencing guidelines at a practical level. In this way consistency can be achieved.

8. Greenfield Sites

Arrangements put in place to manage access in greenfield sites need to primarily ensure that competitive neutrality between infrastructure owners and access seekers is maintained.

Arrangements should also provide infrastructure owners (either existing or new) with certainty that they will earn sufficient income from these assets. That is, an inefficient solution will be reached if there is a risk that any new assets will be rendered stranded within a short period of time. This inefficient solution may take the form of a reluctance to service new areas or planning for new areas with a shorter term focus rather than a longer term planning horizon.

This issue is of particular importance as most water/sewer assets have relatively long lives.

An option to resolve this issue may be to exempt any party investing in greenfield assets (eg large scale urban development) from a subsequent access application for a period of time.

9. Water and Sewage Quality

The quality of water provided to customers is a key risk that needs to be managed as access is introduced.

Firstly, the regulatory compliance (and potential liability) of incumbents needs to be protected by ensuring that access seekers are subject to the same standards.

Secondly, the issues relating to an access seeker seeking to introduce water that meets minimum standards but is of a lesser quality than is currently supplied to customers needs to be dealt with. Some examples of this include different taste, higher salinity and/or colour. These attributes are discernable by customers.

Similar issues may result when an access seeker wishes to extract waste water. An infrastructure owner will not be able to guarantee that wastewater quality will not vary in future as a result of new upstream customers or other changes.

10. Measurement

In order for access to occur, measurement at the relevant input/output points will be required. This may require additional metering to be installed specifically to measure access points.

Other issues that need to be considered include:

- Where end customers are involved:
 - Responsibility for meter reading and meter provision;
 - Provision of metering data to ensure bulk charges are shared appropriately between the parties; and
 - Responsibility for losses.
- Allocation of the cost of additional metering; and
- Development of a protocol for measuring sewage volumes.

11. Retailer of Last Resort

Should it be envisaged that any new entrants will be licensed to provide retail services, retailer of last resort (ROLR) arrangements will need to be put in place.

These arrangements will need to take into account the events that will trigger the ROLR event, identify the party allocated the ROLR role, define the means by which the ROLR will recover the relevant customer data taking into account privacy issues and incorporate a mechanism for the ROLR to recover their reasonable costs.

12. Dispute resolution

It is expected that the state based access regime will define the general terms and conditions of access and pricing principles. In the first instance, an access seeker and incumbent will attempt to reach a negotiated outcome. However, disputes may arise at or after this stage.

South East Water therefore expects that a party will need to be nominated to resolve such disputes. South East Water considers it appropriate that disputes are able to be referred to the nominated party by either the access seeker or the infrastructure owner.

Given the Commission's current role in setting retail prices for incumbents plus establishing the access regime including pricing principles and its potential role in assessing applications for declaration of services, South East Water is of the view that an independent body (either an existing authority or a panel to be convened as required) should be given the role of mediating disputes..

13. Appendix 1 – Responses to Questions Posed by the Issues Paper

Question	South East Water Response
Promoting Innovation and Efficiency in Water and Sewerage Provision	
<p>What lessons can be learned from experiences in developing and implementing access regimes in other industries?</p>	<p>Access regimes in other industries can provide a valuable starting point however there are a number of significant points of difference in the water industry namely:</p> <ul style="list-style-type: none"> • The provision of water, sewer and recycled water services by single entities; • The ability to store the source product; and • The vertically integrated nature of the existing infrastructure owners. <p>That said, the NSW state based scheme is a good basis for assessment.</p>
<p>What factors should the Commission take into account in making its recommendations to ensure that an access regime will be flexible enough to not inhibit the potential for further reform of the</p>	<p>While an access regime can be overlaid on any industry structure, the preferred outcome would be to integrate the introduction of third party access into a well defined reform</p>

<p>water industry in the longer term and to remain applicable to a range of different industry structures?</p>	<p>program for the industry. However, regardless of the industry structure at a point in time the fundamental requirement for competitive neutrality should be maintained.</p>
<p>Designing a state-based access regime</p>	
<p>What factors should the Commission take into account in designing a third party access regime for water and sewerage infrastructure services?</p>	<p>The commission needs to ensure:</p> <ul style="list-style-type: none"> • That the access regime meets the requirements for certification by the NCC. • That any potential efficiency improvements that may be achieved through the introduction of access are not at the expense of standards of customer service, the environment or public health and safety. • Water businesses' financial viability by developing the access regime in a way that provides a level playing field. This will ensure that efficient outcomes are delivered and potential access seekers are not attempting to "cherry pick" lower cost to serve customers. • Access seekers are required to enter into a process of negotiation with infrastructure owners prior to commencing a formal process seeking declaration of a

	<p>service in order to minimise costs for all parties.</p> <ul style="list-style-type: none"> • Access is implemented in a way that does not impose unnecessarily high transaction, administrative and compliance costs.
<p>Coverage of services, negotiation framework and dispute resolution</p>	
<p>Which types of water and sewerage infrastructure services should be covered by an access regime? Consideration should be given to types of services that are expected to satisfy the criteria of being significant, not economically feasible to duplicate, and necessary to permit effective competition in related markets.</p>	<p>While water and sewer transport assets would appear to meet the criteria and are the assets that may be of most interest initially to access seekers, further thought should be given to other assets such as major dams, treatment plants and recycled water facilities. South East Water would prefer access to be implemented incrementally to ensure a smooth transition and to ensure that the assets that can offer the greatest benefit (water and sewer pipelines) are opened up first.</p>
<p>How should the significance of specific water and sewerage infrastructure services be measured?</p>	<p>As part of the development of the regime, the Commission would need to develop a consistent methodology for assessing the significance of services. This could be done with reference to the criteria adopted in the NSW regime.</p>
<p>Do the access arrangements in place for irrigation infrastructure services, that is tradable delivery shares, provide adequate access</p>	<p>South East Water considers the tradeable delivery shares model to provide adequate access. An access regime should not be</p>

to those services?	extended to these services.
Should water and sewerage infrastructure services in the Murray Darling Basin be subject to the state-based access regime or a national access regime?	South East Water is of the view that further work needs to be done to ensure that the water and sewage services in the Murray Darling Basin are treated appropriately. The irrigation and urban water and sewerage assets in this area need to be considered separately. While there are some urban assets that may be of significance to a state based regime, the existing competitive market and the move to national regulation for irrigation needs to be taken into consideration.
Is the approach to coverage adopted in the New South Wales' access regime— combining initial declaration of specific services with a process for case-by-case declaration of other services— appropriate for a Victorian access regime?	While this approach would accommodate South East Water's preferred approach to staging the implementation of access there are issues including uncertainty about the potential for declaration of future assets and uncertainty around the status of key existing assets.
Are there any specific water and sewerage infrastructure services that should be declared from the commencement of an access regime?	South East Water would recommend that access commence with the declaration of the most significant services (water and sewer pipelines) and provide a timetable going forward for the assessment of other assets that meet the significance criteria.
What features should be incorporated into a Victorian access	Such arrangements would need to ensure competitive neutrality

<p>regime to ensure sufficient investment is made in new (greenfields) investments in water and sewerage infrastructure facilities?</p>	<p>between infrastructure owners and access seekers. Arrangements should also provide infrastructure owners (existing or new) with certainty that they will earn sufficient income from these assets. ie an inefficient solution will be reached if there is a risk that any new assets will be rendered stranded within a short period of time. This is of particular importance as most assets have relative long lives.</p>
<p>Should an access regime provide for scheduled reviews of coverage or should it incorporate provisions for case-by-case assessment of applications for coverage declarations or revocation of coverage?</p>	<p>A scheduled review of coverage adds an overhead to the industry which may not provide any additional value. Assessment should be done on a case by case basis when triggered by the development of a new asset, the modification of an asset, the introduction of new technology or a state policy change.</p>
<p>Is the process for case-by-case assessment adopted in the New South Wales regime appropriate for Victoria?</p>	<p>The operation of the New South Wales process may form a guide, however judgement should be reserved until it has operated for a sufficient period of time for all issues to have arisen.</p>
<p>Should an access regime include transitional arrangements? If so, what type of arrangements should be included, what would be their purpose and how long would they need to be in place?</p>	<p>The access regime should provide for the inclusion of transitional arrangements should there be a reasonable case made. The design and duration of the arrangements would</p>

	need to be developed on a case by case basis.
Are there any implementation issues that should be resolved during a transition period?	Again this would need to be determined on a case by case basis.
Should an access regime include regulatory guidance on the processes to be followed in negotiating access, such as negotiation protocols?	Guidance on processes such as the form of an application and the recommended response times may be of value. However, some applications will be substantially more complex than others and sufficient flexibility needs to be maintained to ensure that infrastructure owners can manage applications for access without needing to significantly increase overheads.
What dispute resolution mechanisms should be included in a Victorian access regime?	Dispute resolution mechanisms should ensure that disputes are handled through negotiation between the parties wherever possible and only referred for review as a last resort. These mechanisms may need to be better defined as access applications are received and the nature of potential disputes are better understood.
Should the Commission be the arbitrator in access disputes?	As the Commission sets retail prices for incumbents, is developing the access regime and may have a role in applications for declaration of services, an independent arbiter (either an existing body or specially convened panel) should be

	appointed to mediate disputes.
Are the existing merits review provisions under the <i>Essential Services Commission Act 2001</i> sufficient for reviewing access-related decisions?	The existing merits review provisions are largely untested in the water industry to date. These provisions may need to be reviewed, taking into account the expected coverage of the access regime and the types of access application received.
Access pricing and ring fencing methodologies	
Should an access regime include regulatory guidance on prices, such as indicative tariffs or reasonable price boundaries, to provide a framework for access negotiations between infrastructure operators and access seekers?	While prices could be set for specific circumstances, many applications will be difficult to resolve without understanding the services required by a potential access seeker. The primary objective of the access regime should be to stipulate the methodology to be used to determine the access price. South East Water's preference is that a retail minus methodology be implemented to allow access seekers to open discussions with incumbent service providers on the basis of a known framework.
What issues should be considered in determining access prices?	Access prices (whether specifically approved or developed on the basis of pricing principles) need to ensure competitive neutrality between existing service providers and potential new entrants. The potentially significant costs to an infrastructure owner of

	<p>engaging in an access negotiation should also be recognised. One way of dealing with this issue would be to require access seekers to provide a bond, to give certainty that their application is not frivolous and provide certainty to the asset owner that their costs will be covered should the application fail.</p>
<p>What is the most appropriate methodology for determining access prices for the Victorian water industry—cost of service or retail minus?</p>	<p>A ‘retail minus’ methodology (as was provided for by the ACCC in relation to Services Sydney and in the NSW regime) is the most appropriate, taking into account any exceptions such as sewer mining and access to Melbourne Water assets (see Section 7.2 above).</p> <p>A cost of service approach would allow access seekers to “cherry pick” the less costly to serve customers. Incumbent retailers would then be in a position of facing a risk to their financial viability or seeking (potentially through the reopening of a regulatory price decision) to increase charges to other customers to reflect their higher share of total costs and government obligations.</p> <p>Should a cost of service approach be considered, existing providers will need to have greater flexibility to vary prices across customer types and geographies.</p>

<p>How should the greater risks associated with greenfields investments be taken into account in determining access prices?</p>	<p>Either the risks need to be factored into pricing in order to allow the infrastructure provided to recover the necessary return over a shorter than normal timeframe, or the infrastructure provider needs to have sufficient certainty that the assets will not be stranded in the short term (eg an access holiday).</p>
<p>How should access prices be structured to ensure that the full costs of providing access are recovered without unnecessarily deterring access?</p>	<p>If access is not viable when the full costs of its provision are taken into account, then it is not efficient. The retail minus pricing methodology should discount the retail price to reflect the value of foregone costs but should also include additional costs associated with the access transaction. The customers remaining with the incumbent provider should not be forced to bear the burden of the costs imposed by the access seeker.</p>
<p>Should the processes for determining access prices and prices for water and sewerage services be consistent?</p>	<p>A retail minus approach is considered to be appropriate for both traditional water and sewer retail services.</p>
<p>How should government policies that impact on the incumbent businesses costs be dealt with in considering the interaction between access prices and other regulated tariffs?</p>	<p>The impact of government policies on incumbent businesses' costs should impact equally on remaining customers and access seekers, either through the imposition of government policy/community service obligations on access seekers or recovery of them through the access price charged.</p>

<p>Do Melbourne Water's unbundled bulk water charges provide an appropriate basis for determining access prices for water infrastructure services?</p>	<p>Melbourne Water's current unbundled bulk water and sewer charges have been allocated to the retailers on the basis of a process recommended based on the outcomes of the VCEC inquiry. The allocation methodology used may need to be reviewed depending on the type of access proposal received.</p>
<p>How should ring fencing be implemented in the Victorian water industry?</p>	<p>The implementation of ring fencing as recommended by the VCEC review is supported. However, the final details of the ringfencing requirement need to be developed in conjunction with the final methodology adopted for access pricing. Once the access pricing methodology is confirmed, the Commission needs to develop a set of practical guidelines in close consultation with the industry. The Commission also needs to carefully consider the timing of the implementation of ringfencing to ensure that businesses have sufficient time to implement necessary change to systems and processes.</p>
<p>What information should be included in ring fencing guidelines?</p>	<p>The guidelines need to be developed at a practical level (including actual examples) to ensure consistency across the industry. The best way to achieve this is to involve the industry in their development, once the final access pricing methodology is confirmed.</p>

Should Victorian infrastructure service providers be required to prepare cost allocation manuals and/or reports on compliance with the ring fencing guidelines?	The existing regulatory accounting code should be relatively easily adapted to obtain the information necessary to ascertain the allocation of costs to the various categories. This allocation should be able to be verified through the existing audit process.
Should a more prescriptive regulatory framework apply to infrastructure service providers that are vertically integrated?	Regulatory frameworks should be designed to ensure that businesses that are either vertically or horizontally integrated isolate the costs that apply to certain parts of their business. This should also apply to businesses that operate in both regulated and unrelated competitive markets.
Legislative, regulatory and co-ordination issues	
How significant are the potential barriers listed above in discouraging competition and private participation in the water industry?	It should be noted that existing regulatory barriers have not prevented access arrangements being entered into to date. However, further confirmation of Government policy in relation to the future structure of the water industry and the clarification of property rights within the industry, would be of benefit to all participants. South East Water recommends that the access regime be developed in a manner that is cognisant of broader competitive reforms that may be pursued by the Government.
Are there any other significant barriers to competition and private	Compliance requirements in the area of health, safety,

participation?	environment and consumer protection may also pose barriers to entry, but these represent critical minimum standards necessary for the protection of customers and the general public.
Does the existing institutional framework ensure that obligations currently applying to incumbent providers of water and sewerage services in relation to customer protection, water quality, public health and safety, and environmental protection will apply, when appropriate, to new entrants to the water industry?	Each of the institutional arrangements will need to be examined in detail to determine their application, however it is expected that these obligations should apply to all parties equally.
Do any aspects of the current institutional framework form an unreasonable or inappropriate deterrent to potential new entrants, including access seekers?	The current institutional framework does not form an unreasonable barrier to new entrants. Should consideration be given to modifying the institutional framework, it should still apply equally to all participants. It should be noted, that the current framework has not prevented access occurring to date where it is to the benefit of all parties. Note, the current licensing structure (combined retail and network licences) may need to be reviewed.
Should the existing customer protection framework be extended to cover new entrants to the water industry?	The consumer protection framework should apply to any parties that intend to provide retail services to customers.
Should new entrants providing retail services be required to	New entrants licensed to provide retail services should be

participate in the Energy and Water Ombudsman of Victoria (EWOV) scheme relating to water and sewerage services?	required to participate in the EWOV scheme.
Should retailer of last resort arrangements be established in conjunction with the development of an access regime to protect customers in the event of that access seekers start to provide retail water or sewerage services?	Retailer of last resort (ROLR) arrangements will need to be put in place, should it be envisaged that any new entrants will be licensed to provide retail services.
If so, what factors should be taken into account in designing appropriate retailer of last resort arrangements?	These arrangements will need to take into account the events that will trigger the ROLR event, identify the party allocated the ROLR role, define the means by which the ROLR will recover the relevant customer data taking into account privacy issues and incorporate a mechanism for the ROLR to recover their reasonable costs.
Will any changes to existing water quality regulatory arrangements be required to ensure that public health, safety and water quality standards are not compromised by allowing access seekers to enter the water industry?	Access seekers should be required to comply with the same requirements as incumbents. The key issue in this area is risk management. For example issues such as regulatory compliance and liability may arise where a retailer is currently supplying water that is above minimum requirements and an access seeker proposes to introduce water at a lesser or minimum standard. Some examples of this include different taste, higher salinity and/or colour. These attributes are

	<p>discernable by customers.</p> <p>Similar issues may result when an access seeker wishes to extract waste water. An infrastructure owner will not be able to guarantee that wastewater quality will not vary in future as a result of new upstream customers or other changes.</p>
Do any aspects of the existing water quality regulatory arrangements create an unreasonable impediment to new entry by potential access seekers?	The existing water quality regulations have been put in place in order to protect public health and should not be relaxed to facilitate access.
Is the existing environmental protection regulatory framework sufficient to ensure that access will not compromise existing environmental standards?	Access seekers should be required to comply with the same requirements as incumbents. The key issue in this area is risk management.
Do any aspects of the existing environmental protection regulatory arrangements create an unreasonable impediment to new entry by potential access seekers?	As above, the environmental protection regulations should not be relaxed to facilitate access.
Should a licensing system be developed for the water industry? If a licensing system is not used, what alternative approaches could be considered for regulating service quality and customer protection in the water industry?	A licensing system is necessary in order to ensure that customer service and consumer protection standards are maintained, as well as ensure a level playing field for all participants. This may necessitate some unbundling of the existing retail licences.
Who should be responsible for assessing licence applications (or	The Commission appears to be best placed to assess licence

<p>applications for registration) and for making decisions on the issue of licences?</p>	<p>applications. The Commission may need to consult technical regulators depending on the type of licence sought.</p>
<p>What features should be included in the arrangements for managing the Victorian Water Grid to ensure that potential access seekers are able to participate effectively in the water industry?</p>	<p>South East Water has previously expressed support for the creation of an independent grid manager in order to oversee the optimisation of the water resources available to the water supply grid. This grid manager should operate in a transparent manner, and be independent of the bulk supply asset owners.</p> <p>The Department of Sustainability and Environment (DSE) is currently undertaking a process of review to facilitate the implementation of a grid manager as recommended by the VCEC Inquiry findings. The Commission should refer to the outcomes of this process for an understanding of the grid manager role, particularly if its role extends to market based settlements.</p>
<p>How should network balancing and system losses be managed?</p>	<p>The access regime needs to ensure that all participants take responsibility for the network losses associated with their supply. The regime also needs to ensure that appropriate metering is in place to allow the inputs and outputs from access seekers to be accurately measured.</p>

<p>How should the existing emergency management procedures be modified to include access seekers?</p>	<p>New entrants should be subject to the same requirements as existing participants including a requirement to participate in emergency management and planning procedures. Potential modifications to emergency management procedures will need to be assessed as better information emerges in relation to the number and type of access seekers, and in the context of the introduction of the grid manager role.</p>
<p>What Information collection, reporting and auditing requirements should be placed on access seekers providing water and/or sewerage services?</p>	<p>Information collection, reporting and auditing requirements should be the same as those imposed on existing service providers.</p>
<p>What factors should be taken into account in determining the amount and type of information required by regulators?</p>	<p>As above, the information requirements should not be varied from existing service providers.</p>
<p>What types of information would access seekers need to be able to assess the viability of proposals to provide water and sewerage services and to be able to negotiate effectively with infrastructure service providers?</p>	<p>The information required will depend on the particular access proposal. It is expected that information such as network capacity, environment, engineering standards, long term augmentation plans and pricing information will be sought.</p>
<p>What types of information would be subject to confidentiality requirements?</p>	<p>This will depend on the type of access sought. However, the confidentiality of any information relating to South East Water's arrangements with service providers or in relation to services</p>

	which South East Water provides into a competitive market should be preserved.
Should the Commission be appointed as regulator of the state-based access regime for water and sewerage infrastructure services?	South East Water considers it appropriate that the Commission be appointed as the regulator of the state based access regime.
Should the Commission also be appointed as the arbitrator in access disputes?	Given the Commission's current role in both setting retail prices for incumbents and establishing the access regime including pricing principles and its potential role in assessing applications for declaration of services, South East Water is of the view that an independent body (either an existing authority or a panel to be convened as required) should be given the role of mediating disputes
Are any mechanisms needed to ensure the Commission could undertake the role of arbitrator independently?	As above, South East Water would expect that the final avenue of appeal should be to an independent body.
How long after a state-based access regime has been established should it be reviewed? Should the Commission be given the power to determine when a review should be conducted?	The review period should not be less than five years in the first instance. The review timing should also depend on the number and type of access applications that are made.
What provisions should be included in an access regime to facilitate the development of innovative local solutions to water	The introduction of a state based access regime is in itself designed to encourage the development of innovative local

supply, consistent with broader sustainable urban planning objectives and nor inconsistent with the certification criteria?

solutions. Therefore the access regime should be put in place without any bias towards the development of specific solutions. Rather access should ensure that all participants can enter the market on consistent terms and let the market determine which innovative solutions are the most efficient.