

Mr Joe Dimasi
Senior Commissioner
Independent Competition and Regulatory Commission
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Via email: icrc@act.gov.au

Dear Mr Dimasi

Submission to ICRC Issues Paper: Review of Methodologies for the Weighted Average Cost of Capital

The ACT Council of Social Service (ACTCOSS) represents not-for-profit community organisations and advocates for social justice in the ACT. ACTCOSS's advocacy work includes a focus on poverty, inequality, and the cost of living for low-income households in the ACT.

We welcome the opportunity to respond to the Independent Competition and Regulatory Commission's (ICRC's) Issues Paper on the review of methodologies for the weighted average cost of capital.

As set out in the Issues Paper, the ICRC's review of the methodology for the weighted average cost of capital (WACC) for water and sewerage services

... seeks to ensure that the [ICRC's] approach to determining water and sewerage services prices provides an appropriate return on Icon Water's investments and encourages prudent and efficient investments for delivering services. It also ensures the Commission's regulatory framework continues to be consistent with the Commission's objectives in the Independent Competition and Regulatory Commission Act 1997 (the ICRC Act).

ACTCOSS supports the review of the WACC methodology for water and sewerage services to ensure that it is fit-for-purpose. ACTCOSS considers stability and consistency of the WACC is generally a positive outcome for consumers, though we stress the importance of keeping the WACC no higher than necessary, particularly in the interest of supporting affordability and allowing households to budget effectively for the essential service of water.

Keeping social and community impact at the centre of the review

The ICRC's issues paper proposes the following assessment criteria for the review:

1. Reliance on sound methods and robust analysis
2. Transparency and replicability
3. Stability over time
4. Consistency with best regulatory practice.

ACTCOSS supports the assessment criteria proposed by the ICRC based on our understanding that these will address the ICRC's legislative objectives and the ICRC's regulatory objectives and pricing principles – including those that require the ICRC to consider the social and economic impact of decisions.

The ICRC's issues paper states that it

... considers that these criteria will address the Commission's legislative objectives and the matters that it is required to consider under section 20(2) of the ICRC Act. The rate of return must be set to promote efficient investment in, and the efficient operation and use of, regulated services for the long-term interests of consumers.

As identified in the issues paper, the objectives under the ICRC Act include:

- to promote effective competition in the interests of consumers (section 7(a))
- to promote the efficient investment in, and efficient operation and use of regulated services for the long-term interests of consumers in relation to the price, quality, safety, reliability and security of the service (section 19L)
- [consider] the protection of consumers from abuses of monopoly power in terms of prices, pricing policies (including policies relating to the level or structure of prices for services) and standard of regulated services (section 20(2)(a))
- [consider] the need for greater efficiency in the provision of regulated services to reduce costs to consumers and taxpayers (section 20(2)(c))

- [consider] the social impacts of the decision (section 20(2)(g)).

The regulatory objectives and pricing principles for the water and sewerage tariffs include:

- Community impact – gradual adjustment: Any change to prices or other regulatory arrangements that will have substantial consumer impacts should be phased in over a transition period to allow reasonable time for consumers to adjust to the change
- Community impact – fair outcomes for low-income households: Adverse impacts on households with low incomes need to be limited or moderated by phasing and other compensating mechanisms or limits on changes to regulated prices or other regulatory arrangements.

ACTCOSS welcomed the statement at the ICRC WACC Review Workshop on 20 October 2020, that consideration of the social and community impacts is part of the ICRC's DNA. We also welcomed the acknowledgement that consumer and community advocates are often limited in their ability to engage in regulatory decision-making processes. It is important that the asymmetry that exists between consumer and community advocates and utility businesses and governments is acknowledged and addressed in such consultation processes. ACTCOSS welcomes the ICRC's recognition of this.

ACTCOSS recommends that the review include information that would support consumers, community members, and their advocates to understand the impact of any changes to the WACC methodology.

One option could be for the ICRC to develop one or a number of representative price determinations to demonstrate the impact of any proposed change in WACC methodology. Doing so would allow stakeholders to better compare the effect of any proposed changes against the current WACC method and understand the benefit of any changes.

Utility businesses such as Icon Water are likely to conduct similar modelling on the impact to their own businesses. As was acknowledged at the ICRC WACC Review Workshop, it is not practical for consumers and consumer advocates to do this. ACTCOSS appreciates the potential complexity of this, but we believe this would be worthwhile in assessing social and community impact.

Stability over time through gradual adjustment in prices

ACTCOSS supports the inclusion of stability over time in the assessment criteria. The predictability of price outcomes is important to many consumers – but especially households with low-income or experiencing other forms of hardship. ACTCOSS supports the achievement of this through the community impact pricing principle of gradual adjustment – ensuring that any change to prices or other regulatory arrangements that will have substantial consumer impacts are phased in over a transition period to allow reasonable time for consumers to adjust to the change.

Benchmarking

ACTCOSS recommends that any benchmarking against other utility businesses and regulators is clear about their comparability. For example:

- How does Icon Water's status as an unlisted public company owned by the ACT Government impact on comparability with benchmark efficient firms?
- How do the ICRC's legislative objectives, regulatory objectives, and pricing principles impact on comparability with other regulators' choice of WACC methodology?

Continued engagement

ACTCOSS supports the overall approach the ICRC has proposed to adopt for its review of the WACC methodology for water and sewerage services. We look forward to engaging with the ICRC's Draft Report expected to be released in January 2021, and we would be keen to participate in a workshop if one is held in February 2021. We thank the ICRC for ensuring ACTCOSS was aware of this review and for inviting us to participate in the ICRC WACC Review Workshop held on 20 October 2020. ACTCOSS is keen to engage further in the review to support an outcome that is in the long-term interests of consumers, especially those on low-incomes or experiencing other forms of hardship.

Yours sincerely

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