



Listen Assist Resolve

17 March 2014

Policy, Governance and Legislation Division
Office of Living Victoria
Level 35, 2 Lonsdale Street
MELBOURNE VIC 3000

By email: water.regulations@depi.vic.gov.au

Re: Water (Estimation, Supply and Sewerage) Regulations 2014 Exposure Draft

Dear Sir/Madam

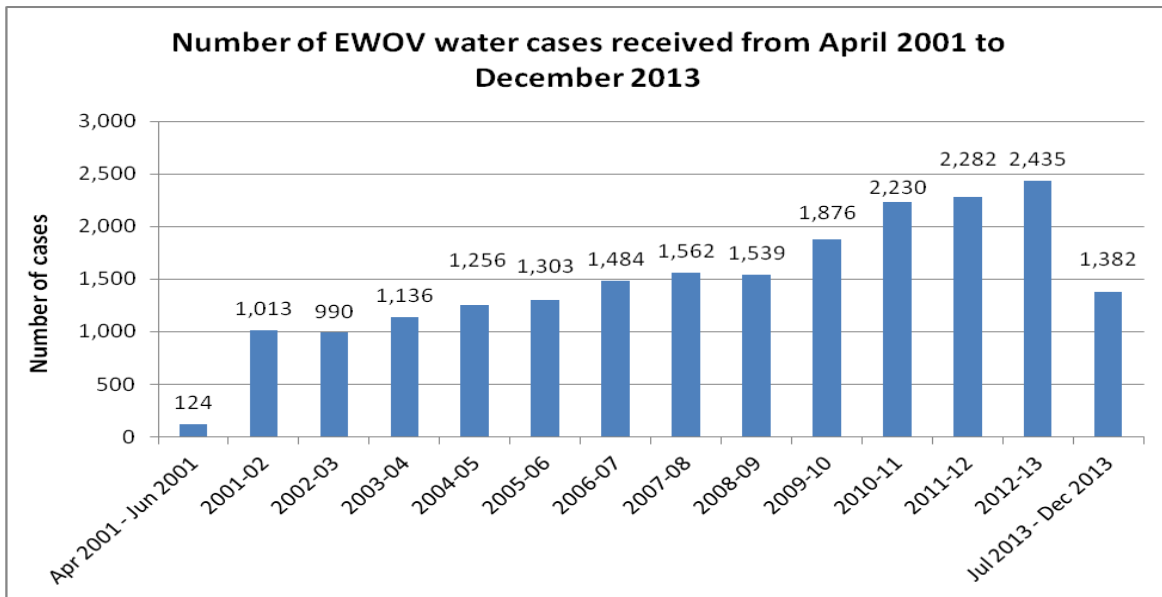
Thank you for the opportunity to comment on the Office of Living Victoria's *Water (Estimation, Supply and Sewerage) Regulations 2014 Exposure Draft* (the Draft Regulations).

As an industry-based external dispute resolution scheme, the Energy and Water Ombudsman (Victoria) (EWOV) provides alternative dispute resolution services to Victorian energy and water customers by receiving, investigating and facilitating the resolution of complaints. In making this submission, EWOV's comments are based on our extensive experience in dealing with water complaints that come to us after they have not been resolved between customers and their water corporations.

EWOV welcomes the improvements and streamlining of Victoria's water regulations and would like to provide the following comments about areas of the Draft Regulations where EWOV believes there are further opportunities for improvement and clarification.

Background on EWOV's Water Case Handling Experience

EWOV's jurisdiction was expanded to include the Victorian water sector in April 2001. Between that time and 31 December 2013, EWOV received 20,612 water cases. This case handling knowledge provides EWOV with in-depth insight into the issues impacting Victorian water customers. The graph on the following page illustrates how water cases have increased since 2001. It is through managing these cases that we offer the following comments.



Customer and Water Corporation Maintenance Obligations

EWOV welcomes the clarification provided in the Draft Regulations about which party is responsible for the maintenance of particular sections of water supply and sewerage works. This will assist Victorian water customers and water corporations in being clearer about their respective responsibilities regarding water asset maintenance and repair. These provisions will also assist EWOV with our case work into more complex land and network asset complaints where disputes arise about maintenance, repairs, replacement and associated costs.

Meter Tests

EWOV welcomes the new provisions outlined under the Draft Regulations about the process to initiate and complete water meter tests. These details are not currently in the existing regulations. EWOV has outlined some additional concerns below about meter tests under the Draft Regulations.

- The Draft Regulations require that customers request meter tests in writing¹. EWOV is concerned that vulnerable customers and customers with communication and literacy issues may not be able to readily request meter testing if the request must be only issued in writing.

EWOV suggests that the Draft Regulations be amended so that customers are able to request a meter test either verbally or in writing to ensure easy access for all customers.

- The Draft Regulations do not specify if a customer or water corporation pays for a meter test, or how much the test may cost². Current energy regulations³ stipulate that if a meter is

¹ Clause 8(1) of the Draft Regulations

² Clause 8 of the Draft Regulations

³ Clause 6.1 of the *Energy Retail Code (version 10a)*

found to be faulty, the customer does not pay. However, if the meter is not faulty then the customer pays for the cost of the meter test⁴. EWOV believes that customers should not be required to pay for a meter test where the meter is found to be faulty or incorrect as this will help prevent complaints.

EWOV suggests that the Draft Regulations specify that customers only pay for meter tests completed where the meter is not faulty.

- The Draft Regulations do not specify that if a meter is tested, and found to be faulty, that it needs to be replaced with a new meter⁵. Anecdotally, EWOV's case handling experience indicates that water meters are irreparably damaged during the testing processes, therefore EWOV believes that it would be appropriate to install a new meter following the test.

EWOV suggests that the Draft Regulations give consideration to whether a new meter is installed on the owner or occupier's land.

- The Draft Regulations, when read in conjunction with the relevant clause⁶ in the *Water Act 1989*, do not specify how a customer's bill will be estimated if a meter test confirms that the meter was faulty, specifically, how the water supply estimation and correction factor would be calculated⁷. EWOV queries if this will be based on the error factor detected in the water meter test or another method. EWOV notes that in the energy industry, correction factors are generally based on the error factor found during the meter test.

EWOV suggests that the Draft Regulations outline how the correction factor is to be calculated when the meter test confirms the meter is faulty, to ensure certainty for customers and water corporations in its consistent application across Victoria's water corporations. This will help prevent customer confusion and complaints where meters are faulty and have affected billing.

Sanitary Drains

EWOV notes that new provisions about single and combined sanitary drains are included in the Draft Regulations⁸. These provisions outline a number of requirements, including the placement of sanitary drains and that water corporations can approve sanitary drains that do not conform to the new regulations. However, it is unclear whether these provisions will apply to existing connections/properties or just new connections/properties.

Without clarification about when the regulation applies (to new or existing connections/properties) it is unclear whether customers with existing connections/properties will be required to ensure a sanitary drain, that connects a property to sewerage works, be

⁴ An exception to this is if a customer has an open Investigation with EWOV, in which case the energy retailer absorbs the cost of the meter test irrespective of whether it was found to be faulty or not.

⁵ Clause 8(5) of the Draft Regulations

⁶ Clause 142(2)(b) of the *Water Act 1989 (Vic)*

⁷ Clause 9 of the Draft Regulations

⁸ Part 3 of the Draft Regulations

wholly within the property boundary⁹. This may prove difficult for customers to comply with, especially for sub-divided properties and those with easements. To replace or modify the location of a sanitary drain, so that it is wholly within a property boundary, may be a costly process for customers and possibly not achievable in some circumstances.

EWOV notes that the Draft Regulations prevent combined sanitary drains from being installed unless the water corporation approves otherwise¹⁰. EWOV is concerned that similar issues, as noted above, will occur for existing properties if they are subject to this new requirement. The Draft Regulations are also unclear about whether the water corporation's approval of non-standard sanitary drains¹¹ will:

- need to occur via an industry-wide approval process, to ensure consistency in approach and clarity in application
- how customers will be notified of a decision (e.g. in writing or verbally)
- if existing properties have an implied approval.

EWOV suggests that the Draft Regulations clearly outline which provisions apply to existing and new connections to minimise confusion and customer complaints. We also suggest that the Draft Regulations specify how water corporations provide approval for sanitary drains and if water corporations are required to assess sanitary drains using a standard process.

Customer Education Plans

EWOV welcomes the inclusion in the Regulatory Impact Statement (RIS) of customer education plans to communicate some of the changes in the Draft Regulations with Victorian water customers, including new rights and responsibilities under the amended regulatory regime. We suggest that any communication plans created include a plain English focused, multi-faceted approach (via websites, fact sheets, promotions, information on bills, etc.) to reach a highly diverse customer group.

EWOV suggests that any customer education plan and communications strategy is driven by a plain English approach and considers how best to reach a highly diverse customer group to ensure its effectiveness and minimise possible confusion and complaints.

We trust the above comments are helpful. Should you require further information or have any queries, please contact Chris Stuart-Walker, Research and Communications Officer, on (03) 8672 4252 or at Chris.Stuart-Walker@ewov.com.au.

Yours sincerely



Cynthia Gebert
Energy and Water Ombudsman (Victoria)

⁹ Clause 16(2) of the Draft Regulations

¹⁰ Clause 16(1) of the Draft Regulations

¹¹ Clause 16 of the Draft Regulations