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Commissioner of the Royal Commission into Domestic, Family and Sexual Violence
South Australian Government
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Dear Commissioner

Submission to the Issues Paper - Royal Commission into Domestic, Family and Sexual Violence

The Essential Services Commission is responsible for the economic regulation of water and sewerage, electricity, gas, maritime and rail industries in South Australia. The Commission also provides advice to local councils, provides advice to the South Australian Government on economic and regulatory matters and conducts formal public inquiries.

Under the *Essential Services Commission Act 2002 (ESC Act)*, the Commission's primary objective is the '*...protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services*'. The Commission's role extends to establishing the consumer protections that essential services providers must deliver, including for customers experiencing different types of hardship.

Having held White Ribbon Workplace accreditation since 2019, the Commission is committed to mitigating and addressing domestic and family violence and embedding that commitment in its culture, the consumer protections that it can establish within the essential services sectors that it regulates and the way it works with essential services providers.

The Royal Commission's Issues Paper seeks feedback on best practice responses to domestic, family and sexual violence. This submission outlines the Commission's understanding of issues consumers impacted by domestic, family and sexual violence face while accessing essential services; the Commission's work in this area; and a recommendation that consideration be given to a standardised approach to responding to customers experiencing domestic, family and sexual violence across different essential services providers, as well as government services more broadly.

Domestic, family and sexual violence and essential services

It has been recognised by [essential services regulators](#) (as explained further below) that perpetrators of domestic, family and sexual violence may exploit essential services to control victim-survivors, affect their financial security, perpetuate psychological abuse, and potentially cause injury or death.

For example, a perpetrator may put a service in the victim-survivor's name without their knowledge and refuse to contribute to the cost, which can result in the victim-survivor accumulating debt. A perpetrator may also try to access a victim-survivor's personal information (such as residential address) held by the essential services provider to threaten their safety.¹

Victim-survivors may disclose family violence as part of seeking hardship assistance or accessing billing services. Essential service providers may be the first point of contact for people experiencing family violence and can play an important role in detecting and supporting impacted consumers to ensure they can continue accessing essential services.

Confidentiality and support for protection from financial abuse is particularly important in an essential services context, given the likelihood that the perpetrator and victim-survivor may share a joint account.

Case study on impact of family violence in the essential services sector

In a real-life case study from ████████,² provided by the Consumer Utilities Advocacy Centre, a man called a water utility to request a water account be reopened in his wife's name. Operating in a context where both regulatory and operational requirements in respect of domestic, family and sexual violence protections were in place and effective, the utility had already locked down the account, as it had been advised the account holder had fled an abusive relationship. The utility offered to open an account in the man's name, which he declined. He later had a female call and pretend to be his wife. He could provide sufficient personal information about his wife to meet the water utility's routine privacy screening questions to enable account establishment; however, as the utility had applied additional security protections, he could not access the account. This case study highlights the importance of strong organisational safeguards to help protect victim-survivors.

New protections for SA Water customers

The Commission has recently made a regulatory determination that applies to SA Water, a monopoly water and sewerage service provider to South Australian consumers. That determination specifies the consumer protections and service standards that SA Water must deliver, and the maximum revenue that it can recover for those services.

As part of the determination, the Commission established an obligation for SA Water to implement minimum consumer protections for customers impacted by domestic, family and sexual violence.³ These protections are legally enforceable under the determination, compliance with which is a condition of SA Water's water and sewerage retail licence (issued by the Commission under the *Water Industry Act 2012*).

The Commission's determination requires SA Water to:

- ▲ have and implement a domestic and family violence policy for customers
- ▲ provide staff training to help staff detect and assist impacted customers

¹ Essential Services Commission Victoria, *Moving towards better practice: Implementing family violence policies in the Victorian water sector*, May 2017, p. 3, available at <https://www.esc.vic.gov.au/sites/default/files/documents/proposed-customer-service-code-changes-moving-towards-better-practice-20170706-v4.pdf>.

² Essential Services Commission Victoria, p. 44.

³ Essential Services Commission of South Australia, *SA Water Regulatory Determination 2024 – Statement of reasons*, June 2024, pp. 89-99, available at <https://www.escosa.sa.gov.au/ArticleDocuments/22067/20240625-Water-SAWRD24-SAWaterRegulatoryDetermination2024-FinalDetermination-StatementOfReasons.pdf.aspx?Embed=Y>.

- ▲ adopt processes that avoid repeat disclosures of domestic and family violence and evidence requirements
- ▲ implement confidentiality and account security procedures to ensure secure handling of customer information
- ▲ consider its approach to debt management and recovery as it relates to customers that are impacted by domestic and family violence, and
- ▲ provide information to customers on external domestic and family violence services that can be accessed for support.⁴

These protections came into effect on 1 July 2024, with SA Water now required to use its best endeavours to meet them. Noting that SA Water may need revised or new internal systems, processes and controls to fully deliver the protection, and that those need to be properly effected and fully embedded within the organisation, an implementation period is in place. As a part of that process, SA Water is required to develop and submit to the Commission by 1 October 2024 an implementation plan. SA Water's performance and delivery against that plan will be closely monitored by the Commission, with full implementation required to be in place and effective by 1 January 2026.

The protections have been informed by the [work](#) of the Essential Services Commission of Victoria, which first implemented protections in 2018, following the findings of the Victorian Government's [Royal Commission into Family Violence](#) in 2015, as well as by submissions made to the Commission during the regulatory determination process. The [Australian Energy Regulator](#), [Economic Regulation Authority \(Western Australia\)](#) and essential services regulators in other Australian jurisdictions have also introduced similar protections.⁵

Opportunities to strengthen domestic and family violence consumer protections

The Commission's research, as well as submissions it has received from stakeholders through its regulatory processes, indicates that there may be opportunities to strengthen protections for people impacted by domestic and family violence. For example, the Commission considers that:

- ▲ There could be community benefit from explicitly specifying in the ESC Act the Commission's role in developing consumer protections in relation to domestic and family violence for essential services customers. While the Commission currently has the legal power to impose obligations as outlined above, it may be that there are other obligations identified through the Royal Commission (or elsewhere) which may better protect our community. To the extent that they may fall outside of the Commission's existing powers and functions, legislative amendments may be required for the Commission to give those other obligations effect within the sectors that it regulates.
- ▲ There could be community benefit from establishing a standardised approach to responding to consumers affected by domestic and family violence across all government agencies and organisations that have a role in interacting with consumers. This would help to provide a consistent and trauma-informed response to people impacted by family violence, and could help victim-survivors recover, heal and thrive.

⁴ Essential Services Commission of South Australia, *Water Retail Code – Major Retailers*, 1 July 2024, Clause 29, pp. 50-52, available at <https://www.escosa.sa.gov.au/ArticleDocuments/22067/20240625-Water-SAWRD24-WaterRetailCode-WRC-MR-04.pdf.aspx?Embed=Y>.

⁵ For instance, see Australian Energy Regulator, *Interim guidance note - family violence rule*, April 2023, pp. 1-15, available at <https://www.aer.gov.au/publications/reports/compliance/interim-guidance-note-family-violence-rule>, and Economic Regulation Authority (Western Australia), *Information for customers experiencing family and domestic violence*, available at <https://www.erawa.com.au/electricity/electricity-licensing/information-for-customers-experiencing-family-and-domestic-violence>.

I would be pleased to discuss the matters raised in this submission further. I can be contacted on

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Yours sincerely

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Adam Wilson

Chief Executive Officer

Letter will only be sent electronically