

Lower Murray Corporation

Application for Exemption - Water Charge Rules 2010

Purpose

To confirm Lower Murray Water (LMW) are a 'Part 6 operator' under the Water Charge Rules 2010 (WCR 2010) and to apply for an exemption in accordance with Rule 23C under the WCR 2010 to enable LMW to be regulated by the Victorian State Agency, being the Essential Services Commission (ESC).

Background

LMW confirms that it continues to be deemed as a Part 6 operator under the criteria of Division 1 Rule 23 of the Water Charge Rules 2010 (WCR 2010).

As LMW is deemed a Part 6 operator, all rural associated infrastructure charges are to be regulated and determined by the Australian Competition and Consumer Commission (ACCC) to ensure achievement of the Basin water charging objectives and principles set out in Schedule 2 to the Water Act 2007 (Cth). Under WCR 2010 Rule 29, the ACCC must determine or approve the infrastructure charges set out in a price application subject to Rule 29(2)(b) and (c).

The State of Victoria has a comprehensive regulation regime with encompassing legislation in place for all LMW urban and associated services charges, which are regulated and determined by the ESC with charging objectives and principles that fundamentally align with the WCR 2010 Rule 29(2)(B).

For the Victorian water agencies that are deemed Part 6 operators, the rural associated charges have been regulated and determined by the ESC under approved accreditation arrangements within the Water Industry Act 1994 Part 1B Section 40, Power of Commission to apply for accreditation. These accreditation arrangements are to remain in place for the remainder of the current pricing determination period, however the next pricing submission determination and approval would be undertaken by the ACCC under current legislation.

The WCR 2010 has the provision under Rule 23C (1) to allow LMW to apply to the ACCC for an exemption. The ACCC may grant an infrastructure operator a written exemption from the operation of the requirements of Divisions 2, 3 and 4 of the WCR 2010.

In making the decision Rule 23C(5)(f) of the WCR 2010 states the ACCC must consider;

whether the relevant law of a State is being transitioned so that the operator's infrastructure charges will at a future date be determined or approved by a single State Agency in a way that is consistent with paragraph 29(2)(b)

The Victorian government supports state-based regulation of Basin charges by the ESC and is proposing new arrangements that, once in effect, will ensure the state's regulatory framework

meets the requirements set out in the Water Charge Rules 2010 and the Commonwealth's objectives for the economically efficient and sustainable use of Basin resources.

We understand that DELWP is in discussions with the ACCC to ensure that state-based regulation regime accords with the ACCC's expectations.

Application for Exemption

LMW are applying for an exemption under Rule 23C and provide the supporting information to assist the ACCC to make a decision having regard to matters contained in Rule 23C(5).

(a) the total volume of water access rights in relation to which bulk water services are provided by the operator, if applicable.

In Victoria, a water access right is the perpetual ongoing entitlement being a 'Water Share'.

LMW do not provide bulk water services. LMW do not incur costs for providing a service to be recouped via an (on-river) bulk water charge.

LMW is an off-river infrastructure operator whereby the storage, delivery and/or drainage of water diverted from a natural watercourse, through a network consisting of channels and/or pipes (which can be gravity fed or pressurised) to another person.

LMW does charge its customers a levy for bulk water, on a 'pass through' basis, whereby no additional margin is applied to the Goulburn Murray Water (GMW) bulk water charge. LMW has historically enabled GMW (the bulk water service provider) to levy their bulk water charge to recoup their costs of providing the service to their customers.

Prior to the Victorian Water Register 2007, there was no public register of all water-related entitlements in Victoria. GMW relied on LMW customer database and billing processes to enable the levying of the GMW bulk water charges on its behalf. This practice continues today, although it could technically be completed by GMW via the Victoria Water Register water share database.

The total volume of water share entitlements that LMW levied the bulk water charge on the 'pass through' basis 1 July 2020 was;

| Entitlement Type | Bulk Water Charge Volume (ML) |
|-----------------------------|-------------------------------|
| Murray – High Reliability | 296,315.09 |
| Murray – Low Reliability | 7,099.10 |
| Goulburn – High Reliability | 18,116.73 |
| Goulburn – Low Reliability | 6,290.94 |

Of the bulk water charges levied, 221,806.6 ML was for Private Diverter customers (operate their own infrastructure on-river) or Non-water Users.

The bulk water charges billed as a “pass through” depend on the volume of Water Shares that LMW customers hold as of 1 July of any given year. Based on the previous billing date of 1 July 2020, LMW billed \$2,545,471 (includes Private Diverters \$1,700,325) bulk water charges in FY2021 which represents 9.3% of LMW’s total rural revenue for FY2021 of \$27,282,447.

GMW manage the river storages and the infrastructure to convey bulk water down the river to a point where LMW can extract the water for delivery to our customers. LMW act as the infrastructure operator and on-charge as a pass-through the GMW bulk water fee to the individual end customer. LMW do charge a small bulk water component for the loss of water within its infrastructure via its infrastructure charges.

(b) the total volume of water subject to water sharing arrangements in relation to which the operator provides infrastructure services, if applicable.

Not applicable.

As an off-river infrastructure operator LMW does not have any responsibilities in water sharing arrangements.

The Northern Victoria Resource Manager (NVRM) makes seasonal determinations for all northern Victorian regulated river systems including the Goulburn, Broken, Campaspe, Loddon, Bullarook and Murray regulated river systems. The Minister for Water appointed GMW to undertake this role in accordance with Victorian water sharing rules.

The water necessary to give effect to inter-state water-sharing arrangements is stored, managed and operated by GMW as the NVRM.

(c) the infrastructure services provided by the operator;

LMW provides off-river infrastructure operator services.

LMW’s infrastructure service is mainly delivery and/or drainage of water diverted from a natural watercourse, through a network consisting of channels and/or pipes (which can be gravity fed or pressurised).

LMW provides infrastructure services to;

- Irrigation - river quality water services to:
 - 2,666 irrigation and 2,240 stock and domestic customers in the four pumped irrigation districts of Mildura, Merbein, Red Cliffs and Robinvale
 - 309 Millewa rural district customers
 - waterworks district of Yelta.
- Manage the extraction of the region’s rural bulk water entitlements;
- The collection and disposal of subsurface drainage water from the four pumped irrigation districts, as well as from private diverters in Nangiloc, Robinvale and Boundary Bend;

- Oversight of irrigation and drainage design in new agricultural developments ensuring conformity with salinity management plan development guidelines;
- Management of the private diversion licences of 1,313 water users along the Murray River in Victoria between Nyah and the South Australian border;
- The assessment and approval of licensing, water share and allocation trade applications; and
- Water supply delivery to important environmental and recreational sites.

(d) any preferences expressed by the operator's customers to the ACCC;

LMW has not obtained nor have any indication of preference expressed from our customers.

(e) any views expressed by a State Agency to the ACCC;

LMW has contacted the ESC (State Agency) informally, whereby the ESC has indicated support of the intent of LMW's application for exemption, with a transition to State Agency regulation. The ESC is confident that the Victorian regulatory framework provides a thorough and robust regime for the benefit of the Victorian customers.

For the ESC's formal view, the ACCC should contact the ESC directly.

(f) whether the relevant law of a State is being transitioned so that the operator's infrastructure charges will at a future date be determined or approved by a single State Agency in a way that is consistent with paragraph 29(2)(b);

We understand that DELWP is in discussions with the ACCC to ensure that state-based regulation accords with the ACCC's expectations.

The Victorian government supports state-based regulation of Basin charges by the ESC and is proposing new arrangements that, once in effect, will ensure the state's regulatory framework meets the requirements set out in the Water Charge Rules 2010 and the Commonwealth's objectives for the economically efficient and sustainable use of Basin resources.

(g) the proportion of the infrastructure operator's revenue to be recovered from infrastructure charges;

As LMW is an irrigation infrastructure operator, LMW's rural irrigation revenue predominantly consists of infrastructure charges.

Audited revenue received from irrigation services for 2020 is detailed below:

| Rural Revenue | 2019-20 \$ |
|---|-----------------------------|
| Infrastructure Charges | |
| Water Infrastructure | 17,968,875 |
| Drainage Infrastructure | 1,479,512 |
| Irrigation water delivery | 5,877,546 |
| Total Infrastructure Revenue | 25,325,933 |
| Other Income | |
| Termination Fees | 52,208 |
| Interest on Charges | 68,280 |
| Interest on Investments | 45,786 |
| Other Income | 538,595 |
| Proceeds Sale Assets | 455,183 |
| Fees | 290,117 |
| Abnormal Income | 440,084 |
| Rental/Lease Income | 22,163 |
| Assets rec'd by developers | 157,780 |
| Fees paid by developers | 4,667,666 |
| Govt Contributions (Noncapital) | 2,375 |
| Total Rural Income | 32,066,170 |
| Infrastructure Revenue % Total Rural Revenue | 79% |

(h) any other matters that the ACCC considers relevant.

LMW undertake to provide, where applicable, any further information the ACCC requests to assist them to make a decision on the exemption application.