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Your reference: 00101294xCE34F

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20 October 2022

Phil Narezzi
CEO, Sydney Desalination Plant Pty Ltd
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via email

Dear Mr Narezzi

Your proposal to avoid the unnecessary further proliferation of Emergency Response Notices

Thank you for your letter of 17 October 2022 outlining a proposal to reduce the administrative burden on all parties caused by the frequent issuing of Emergency Response Notices (**ERNs**) under the Tribunal's 2017 determination of SDP's maximum prices.

The Tribunal does not intend to take enforcement action for any non-compliances arising from implementing your proposal

In the circumstances, the Tribunal supports your proposal. We consider that the proposal should be implemented not only for the 16th ERN mentioned in your letter, but also for any subsequent ERN issued while the 2017 determination remains in effect.

So long as the three conditions set out in this letter are met, I can confirm that the Tribunal does not intend to take compliance action in respect of:

- SDP charging more than a maximum price for a service regulated under the Tribunal's 2017 determination, where the exceedance of that price is a result of the arrangements for compensating SDP described in your 17 October 2022 letter; and
- any related non-compliance with a requirement under the 2017 determination about the form or content of, or the procedure for providing, ERNs.

The three conditions

1. SDP must adhere to the proposal described in your 17 October 2022 letter, including the attachments to it.
2. Any exceedance of a maximum price set out in the 2017 determination must be a result of Sydney Water compensating SDP for costs which are incurred:
 - a. before the 2017 determination has been replaced or purportedly replaced
 - b. in response to an ERN (whether or not SDP provides the Agreed Volume specified in that ERN), and

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- c. because Sydney Water asks SDP to produce less than 250ML of water per day, and SDP needs to dispose of surplus energy because the energy adjustment mechanism does not apply to periods where SDP produces less than 250ML of water per day.
3. SDP must be compensated for those costs in accordance with the terms of the March 2020 "Emergency Response Agreement" between SDP and Sydney Water, or on substantively identical terms.

If SDP does not comply with these conditions, the Tribunal may need to reconsider its position regarding enforcement action.

IPART's contact officer for this matter is Matthew Mansell, Director, contactable on (02) 9113 7770.

Yours sincerely

20/10/2022

X 

Signed by: Carmel Donnelly

Carmel Donnelly PSM

Chair