

From: Ingrid de Vos
Sent: Monday, 6 September 2004 4:36 PM
To: Michelle Groves
Cc: John Feil
Subject: FW: Review of Draft Recommendation, National Competition Council 12/8/04

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From: Jacqueline Gale
Sent: Monday, 6 September 2004 2:13 PM
To: Ingrid de Vos
Subject: FW: Review of Draft Recommendation, National Competition Council 12/8/04

From: Douglas and Jeanne Robertson [mailto:dj.robertson@bigpond.com]
Sent: Monday, 6 September 2004 1:30 PM
To: National Competition Council
Subject: Review of Draft Recommendation, National Competition Council 12/8/04

Executive Director, NCC.

This respondent agrees in principle that the application by Services Sydney (SS) for declaration of Sewage Transportation and Interconnection Services provided by Sydney Water (SW) should be approved as outlined in the NCC's Draft Recommendation, subject to reconsideration of certain of its draft determinations per comments below. Services Sydney's application, as permitted under the declaration provision of Part IIIA of the TPA, is to access wastewater collection services in direct (FREE MARKET) competition with the NSW Government.

Ref. 1.4&1.5:

The Council's Draft Recommendation subdivides SS's single service application into six (6) applications for declaration for each of the two (2) services provided by SW's reticulation networks at North Head, Bondi and Malabar.

Comment:

Three (3) separate Sewage Transmission and Interconnection Service Networks (totaling 6 applications for declaration) may be appropriate for encouraging and generating competitive proposals from "others"; however, a comprehensive proposal that transports all SW's sewage collection services to tertiary treatment would most likely result in lower total system costs. Overall engineering advantages would accrue to new Trunk Sewer designs converging into an integrated treatment system. Standardisation of Equipment purchases and deliveries, and avoidance of duplication of Construction, Labour and Overhead expenses would also likely translate to lower costs to ratepayers and (a) more effective and environmentally sound [long overdue] major Wastewater Reuse System(s).

Ref 4.17&.18:

SS argues that the (entire) Sydney Sewage Reticulation Network is a minimum bundle of assets required to provide the Services, as exemplified by the Sydney Airport decision to aggregate its various facilities into one Unit.

Comment:

Particularly as this precedent strengthens SS's argument for consideration of the various networks as one integrated service, the Sydney Airport decision encourages optimisation of the bidding process to the benefit of society. The Council's Final Recommendation should include SS's proposal to aggregate SW's various network services into one Unit, as well as access to any of the individual six services as SS and other competitors may choose. Otherwise, the Council is itself RESTRICTING THE ENTERPRISING ADVANTAGES OF THE FREE MARKET!

Ref. 4.19&.24:

The Council questions whether or not the degree of integration between the 3 Networks (North Head, Bondi & Malabar) is essential to the combined efficiency of total service.

Comment:

The Council recognises and SS argues that there exists a degree of economic integration and management. This respondent considers that such rationalisation is consistent with the decision to integrate facilities in the Sydney Airport ruling!

Ref. 4.21(I)through(vi):

SW argues that the 3 reticulation networks are each a distinct network.

Comment:

The "return" trunk sewers proposed to carry wastewater to tertiary treatment will be part of an "amplification" scheme served by the 3 "reticulation" networks that will no longer consist of separable parts, but will be combined to produce a "final" product that can be distributed to satisfy regulatory requirements. A successful newly integrated wastewater reuse sewerage system as proposed by SS would discard the 3 ocean outfall networks to the dustbin of history!

Ref. 4.21(vii):

The North Head Reticulation Network has a low wet weather/dry weather experience compared to the Bondi Reticulation Network.

Comment:

See Ref. 5.10 below.

Ref. 4.28:

The Council considers that SS's application seeks declaration of 6 divisible parts.

Comment:

For reasons given in comments to Ref. 4.21(I) through (vi) above, this respondent considers that the Council's Conclusion is incomplete and should contain a provision for acceptance of SS's initial application for declaration of a single integrated "amplification" scheme.

Refs. 5.9 & 5.10:

Based on the information on average daily flows and wet weather flows contained therein, it appears that there was little economic justification for construction of the \$460 million North Head Storage Tunnel to carry only about 2 or 3% of North Head's annual flows.

Comment:

Sydney Water should be asked to justify the utility of this expenditure that could have been saved or better utilised elsewhere!

Ref. 5.13:

The Council considers that criterion (b) is satisfied, as it would be uneconomical to develop parallel facilities to duplicate the 3 network reticulation services.

Comment:

Further to comments to Refs. 5.9&5.10 above, this respondent agrees with the Council's conclusion in Ref. 5.13.

Ref. 6.2(b)(I)&(II):

Asks whether incumbent (SW) has the market power to adversely affect competition.

Comment:

SW Corporation came into being after passage of the "State Owned Corporations Act 1989" and as such can preserve its existence as the major sewerage services provider at the expense of qualified competitors unless challenged by this process of declaration. Currently, it is a MONOPOLY provider that violates the spirit of the High Court's definition of MARKET (entry) as provided in Ref. 6.7!

Ref. 6.48&6.48(a)&(b):

SW argued for the purposes of the "with and without" declaration test in criterion (a), "competition is promoted either by reduced price offerings or by quality enhancements". SW's ARGUMENT IS NOT TRUE FOR MONOPOLY GOVERNMENT SERVICES! See responder's reasoning and example for potable water supplies in AFTERWORD!

Comment:

Market demand for tertiary treated wastewater would diminish during seasons of plentiful rain and dam spillway overflows. That is a natural consequence of market risk dependent on supply and demand factors. Nevertheless, constraining the exercise of power by SW to limit competition is an advantage of the declaration process.

Ref. 6.52:

"Heads of Agreement" was terminated by SW.

Comment:

The Council has clearly indicated that SW can constrain competition and this is a prime example!

Ref. 6.57&6.62:

The Council denies the validity of Halcrow's Report that SW's prices are potentially above competitive rates.

Comment:

The IPART rates are not necessarily optimum just because IPART happens to be the pricing authority. SS's argument seems to indicate that its prices could be more competitive - a strong argument for declaration?

Ref.6.59:

Sydney Water Act 1994.

Comment:

SS's Operating License could be tailored to satisfy the same, or more stringent parameters as those delineated in the Sydney Water Act 1994 and IPART regulation.

Ref. 6.92:

SS requires access to the Transportation and Interconnection Services and declaration would provide it with such access.

Comment:

Therefore the Council considers that Criterion (a) is satisfied in respect of the sewage collection market.

Ref. 6.93

SW is the only provider of recycled water services in the Sydney area.

Comment:

By being Sydney's only provider of potable water, SW is able to "neglect" the provision of recycled water services by favouring its preference for over-supply of potable water. SS's supply of recycled water would provide competition and reduce the demand for potable water across Sydney. Currently, SW is putting the wasteful burden on potable supply, because it recycles only 2.3% of effluent!

Ref. 6.96, .97, .98

SS's application for declaration is implicit that its primary customer for recycled water would be the Sydney Catchment Authority. Dam reservoir drawdowns would be less frequent when SS restores environmental river flow to rivers with recycled water rather than opening dam discharge gates when spillway and catchment flows are inactive.

Comment:

The competition generated by SS entering the market would require extensive price restructuring. SCA would sell less quantities of potable water to SW at less financial return, thereby reducing income to SCA. And presumably, either SW and/or SCA would compensate SS for recycled water returned to environmental river flows. This new interlocking 3-supplier regime would have extensive pricing reverberations that would dramatically rearrange the current roles played by SW and SCA if SS becomes a significant supplier of wastewater reuse services. But overall, distinct advantages accrue to society due to net reduction in demand on potable water supplies that are constantly under threat during droughts in our catchment areas!

Ref. 6.102:

The Council concludes that each of SS's applications for declaration satisfy criterion (a).

Comment:

This respondent agrees with the conclusion, but pleads that every effort be given by the Council to enable the applicant to enhance its entry as a competitor in Sydney's sewage collection market by defining the North Head, Bondi and Malabar networks as a single integrated service, consistent with its application!

Ref. 7 S. 44G(2)(C):

That the facility is of national significance?

Comment:

This respondent agrees with the Conclusion contained in 7.11 that the Council is satisfied that NH, Bondi and Malabar are nationally significant and satisfy criterion (c).

Ref. 44G(2)(d):

No undue risk to Human health of safety?

This respondent agrees with the Council's determinations that each of the six (6) applications and its single application satisfy the requirements of criterion (d).

Ref. 44G(2)(e):

That access to the service(s) is not already the subject of an effective access regime?

Comment:

This respondent agrees that criterion (e) is satisfied in respect of each application and its initial single application.

Ref. 10 S. 44G(2)(f):

That access is contrary to public interest?

Comment:

SW recycles only 2.3% of effluent (Ref.10.9), Therefore it favours supply of excess quantities of potable water in contrast to application of good engineering solutions that would lead to more recycling! The Council also concludes (Ref.10.27) that applications for declaration satisfy criterion (f) and would not be contrary to public interest. This respondent agrees with these assessments and conclusions.

Ref. 44F(3):

Application not in good faith?

Comment:

This respondent agrees with the Council that the application has been made in good faith and it has no reason to exercise its authority under 44F(3).

Ref. 44F(4):

Consideration of alternate facilities?

Comment:

This reviewer agrees with the Council that it is NOT economical to develop alternative facilities.

Ref. S 12:

Duration of declaration? The Council recommends that SS's requested period of 50-years be reduced to 15-years.

Comment:

This respondent is mindful that most very large dollar value public infrastructure projects (3 transportation networks in total in this case) each have a "design Life" of at least 50-years in order to make them economically attractive at inception. Since Part IIIA "enables a party to seek revocation of a declaration" (in the future), such protection is a "confidence booster" to the Council if the longer period of declaration is consistent with good engineering and estimating practice used at the time. The duration of declaration should be calculated by SS and only contested by the Council if its own analysis is at variance with figures produced by SS.

This respondent disagrees with the Council's conclusion that the declaration period should be limited initially to 15-years as it appears to reflect an "arbitrary" decision, not a "calculated" decision!

Responder's Afterword:

For the first 90-years or so of the 20th Century, water supply and sewerage services along with numerous other essential services were supplied by State and Federal government bureaucracies until passage of the "State Owned Corporations Act, 1989" which allowed NSW government services (and across Australia) to be systematically converted over time to "business operations". This dislocation to service operations failed to acknowledge that there is a grave and fatal split between "service" and "payment" in ALL government operations. The government can increase its revenue by raising its service fees and/or taxation. Since government bureaus and "businesses" need not worry about losses or bankruptcy, they can make up the losses from the public till, even as their operations BECOME MORE INEFFICIENT! By contrast, if customer demand should increase for the goods and services of a PRIVATE business, the private firm is delighted. Conversely, Government (Corporatised or not) urges its customers to BUY LESS WHILE IT CHARGES MORE, as is the case with SW which has allowed shortages to develop in the potable water supply market along with the DETERIORATION IN QUALITY OF ITS SERVICES, FOR WHICH IT CHARGES MORE! Enough operational and financial evidence is available that CLEARLY shows "Corporatised Bureaucracies" are "less effective" than the "old bureaucracies" they replaced under the State Owned Corporations Act 1989. Based on the huge number of staff layoffs at SW (City Rail & elsewhere), INEXPERIENCED Ministers have been granted relatively unfettered management and dismissal control of employees who are essential to "effective" operation of our State Services! State Premiers and Ministers of the controlling political party become the DE FACTO CHIEF EXECUTIVES who have an overbearing tendency to rule day-to-day operations of our large Corporatised service agencies that often dwarf the financial balance sheets and complexity of many of our largest PUBLIC/PRIVATE CORPORATIONS.

Services Sydney's application for declaration to access Sydney's wastewater collection services in direct competition with the NSW government, SHOULD BE APPROVED BY THE COUNCIL TO IMPROVE

COMPETITION FOR THE BENEFIT OF SOCIETY!

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