



National Farmers' Federation

Public Submission to the ACCC Preliminary Access Termination Fee Position Paper

15 September 2008



Member Organisations



Introduction

The NFF welcomes the opportunity to provide a submission to the ACCC Access Termination Fees Position Paper. This submission builds upon NFFs submission to the previous issues paper for water charge rules.

Access termination fees are legitimate mechanisms to assist IIOs deal with the ongoing payment of access fees to the irrigation network. The larger IIOs to which the current termination fees apply (i.e. the irrigation corporations included in the 2006 review and decision), remain concerned about future payment of access fees when irrigation farms are largely dewatered or where the landholder has a history of bad debts.

NFF notes that the proposal by the ACCC is that access termination fees will apply to all irrigation infrastructure operators (IIOs). The extent of the issue of dewatered farms and bad debts for smaller IIOs is an unknown element, and requires further investigation in order to ascertain the current situation, and projected and future impacts.

As in previous submissions, and not repeated here, NFF are concerned about the ability for smaller IIOs to understand and implement a myriad of new rules that will most likely affect their operations. NFF strongly encourages the ACCC to ensure contact is made with these IIOs to allow them the opportunity to provide input into the development of rules that may significantly affect their business operations.

NFF also strongly encourages the ACCC to make it more transparent about what rules may affect what IIOs, noting that there may be some scope to waive the requirements for some IIOs to be exempt and that consideration of this will be on cost effectiveness grounds.

NFF Position

NFF would suggest that the ACCC position of a review of access termination fees in 2013 should be bought forward to 2011 to coincide with the commencement of the Basin Plan, and to provide an earlier assessment of any perverse or unintended outcomes. In particular, reviewing such fees some four years after implementation (assuming this commences across the board in 2009) would mean that there could be significant negative impacts, whereas a review 1-2 years after implementation would provide sufficient timeframe to assess impacts and make the necessary changes.

NFF would submit that the access termination fees should not be prescriptive regarding the level of fees but set out the principles to be applied in the determination of the level of the termination fee.

In 2006, access termination fees for the irrigation corporations were implemented, following a review by ACCC. These fees applied to the major irrigation corporations in the Basin, the majority of which are mainly located in the Southern Valleys. Despite recommendations by the ACCC of a move to 8 times the access fee, NFF understands that

the State Ministers agreed to set the level at 15 times. By default, this means accepting that there is a valid role for the continuation of the shadow access fee.

Significantly, this ACCC process excluded small IIOs. Therefore, NFF are concerned about the likely impacts on smaller IIO and suggest that more work may be required by the ACCC to better understand this impact. Because of such an investigation, the ACCC will be able to develop a more robust policy response that accommodates not only the variations in the size, structure and cost recovery of the IIO but also to address the inequities due to inefficient cost bases¹.

Until such work is complete and the potentially dramatic impacts of the \$3.1 billion Water for the Future purchase program is understood, NFF suggests that the current application of termination fees remains in place, i.e. 15 times for irrigation corporations, and no termination fee for non-corporatised (smaller) IIOs.

NFF draws ACCC's attention to comments made in the NFF submission to the Market Access Rules Position Paper regarding termination fees in relation to security in that paper.

Given the concerns about debt recovery for access fees and third party impacts, NFF would suggest that it may be worthwhile for the termination fees to be included as part of the service/delivery contract between the irrigator and the IIO. This may include arrangements for the level and payment of the termination fee.

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¹ MIL and MI as quoted in ACCC Access Termination Fee Position Paper, p. 26, see also footnotes 102 + 103.