

Extension of deadline for making representations or objections to the notices, issued under and in accordance with section 22A(5) of the Water Industry Act 1991 (as amended), of the Water Services Regulation Authority's proposal to impose penalties on Thames Water Utilities Limited, served on 9 January 2008.

1. Background

1. In January 2006, Thames Water Utilities Limited (Thames Water) informed the Water Services Regulation Authority (Ofwat)¹ that it had been misreporting its customer service performance; failing to achieve certain standards of customer service performance as set out in the Water Supply and Sewerage Services (Customer Service Standards) Regulations 1989 (as amended) (the "GSS Regulations"); and had not been making payments due to customers for those failures as required by the GSS Regulations.
2. As a result Ofwat and Thames Water jointly appointed Ernst & Young LLP ("Ernst & Young") to carry out an independent investigation into these irregularities. The final report of this investigation was submitted to Ofwat in November 2006.
3. On 19 July 2006 Ofwat gave notice, under and in accordance with section 22A(4) of the Water Industry Act 1991 (as amended), of Ofwat's proposal to impose a penalty on Thames Water Utilities Limited ("the GSS Notice").
4. On 28 September 2007, Ofwat gave further notice under section 22A(4) WIA91, of its proposal to impose a penalty on Thames Water in relation to Thames Water's contraventions of Conditions J and/or M ("the J/M Notice"). Ofwat also gave notice under section 22A(5) WIA91, of its variation of its proposal in the 22A(4) GSS Notice, ("the GSS Variation Notice")
5. On 9 January 2008, Ofwat issued notices ("the Notices"), under and in accordance with section 22A(5) WIA91.
6. The Notices comprised:

¹ Thames Water informed the then Director General of Water Services (the "Director"). On 1 April 2006 the office of the Director was abolished and replaced by a body corporate known as the Water Services Regulation Authority (section 34 of the Water Act 2003 (the "WA03")). On the same day the functions of the Director were transferred to the Water Services Regulation Authority under section 36 WA03 and the Water Services Regulation Authority Transfer Scheme 2006. Anything done by the Director for the purpose of or in connection with any of his functions and which is in effect immediately before the transfer (such as the Notice) is treated as if done by the Water Services Regulation Authority (Schedule 3, paragraph 6(1) WA03). The transfer of the functions does not affect the validity of anything done by the Director before the transfer takes place (Schedule 3, paragraph 6(2) WA03). The Water Services Regulation Authority is substituted for the Director in any document relating to anything transferred (Schedule 3, paragraph 8). In this document the term "Ofwat" is used to mean both the Water Services Regulation Authority after 1 April 2006 and the Director prior to 1 April 2006.

1. a notice of Ofwat's variation of its proposal set out in the J/M Notice, stating that:
 - i) Ofwat proposes to impose a penalty on Thames Water;
 - ii) Ofwat is satisfied that Thames Water has failed to comply with Licence Conditions J and/or M by way of its misreporting of regulatory information.
 - iii) Ofwat considers a penalty of 0.8% of Thames Water's turnover (which amounts to £11.1 million) to be appropriate in the circumstances.
 - iv) representations or objections with respect to the proposed penalty are to be made by 6 February 2008.

2. a notice, under and in accordance with section 22A(5) WIA91, of further variation of its proposal set out in the GSS Notice, stating that:
 - i) Ofwat proposes to impose a penalty on Thames Water;
 - ii) Ofwat is satisfied that Thames Water has failed to achieve standards of performance prescribed under sections 38(2) and 95(2) of the WIA91, namely the standards in the Water Supply and Sewerage Services (Customer Service Standards) Regulations 1989 (as amended) (the "GSS Regulations");
 - iii) Ofwat considers a penalty of 0.1% of Thames Water's turnover (which amounts to £1.4 million) to be appropriate in the circumstances.
 - iv) representations or objections with respect to the proposed penalty are to be made by 6 February 2008.

2. Thames Water's request for an extension

7. On 5 February 2008 Thames Water wrote to Ofwat requesting an extension to the deadline for representations or objections on the two Notices issued on 9 January 2008, from 6 February 2008 (as set out in the Notices) to 20 February 2008.

3. Ofwat's grant of an extension

8. Ofwat considers Thames Water's request for the deadline for representations or objections in respect of the Notice to be extended to 20 February 2008 to be reasonable.
9. Thames Water has only asked for an extension for itself. Nevertheless, Ofwat considers that it is appropriate to grant the same extension to all parties wishing to make representations or objections.

10. Ofwat hereby extends the deadline for representations or objections from all parties with respect to the two proposals to impose penalties as set out in the Notices published on 9 January 2008, from 6 February 2008 to 20 February 2008.
11. Representations or objections should be made in writing to:

Ingrid Olsen
Head of Enforcement Policy
Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

E-mail: ingrid.olsen@ofwat.gsi.gov.uk
12. Representations or objections, which should be made in writing, should be clearly marked “Thames Water Proposed Penalty – Standards of Performance” or “Thames Water Proposed Penalty – Conditions of Appointment” respectively.
13. Representations or objections will be placed in our library and made available to the public, unless you have clearly indicated that you do not wish this to happen. In general, Ofwat will honour this request, but there may be circumstances in which, under the Freedom of Information Act 2000, Ofwat would be obliged to disclose responses.
14. Any person who has already submitted representations or objections who wishes to take advantage of the extended deadline should contact Ingrid Olsen as detailed above.

Keith Mason
Director of Regulatory Finance and Competition
On behalf of the Water Services Regulation Authority
7 February 2008