

Dylan Spedding
Forward Programme Consultation
Corporate Communications
Ofwat
City Centre Tower
7 Hill Street
Birmingham B5 4UA

11th February 2014

Dear Mr Spedding,

Ofwat forward programme 2014-15 – draft for consultation

Thank you for inviting us to comment on Ofwat's forward programme for 2014-15.

We welcome Ofwat's publication of a draft forward programme and find the methodology you have taken to be helpful and transparent in terms of your proposed approach to reporting against the UK Government's strategic priorities. We also find the presentation very clear and easy to understand.

We recognise that 2014-15 is a transitional year and that this is a good time for Ofwat to review its strategy as it looks to the future. We are keen to be active participants in the dialogue which you plan to undertake over the next 12 months. In terms of the framing of your approach, given the long term nature of many of the key issues facing both customers and the regulated companies, we wonder if the development of an Ofwat strategy that *continues* to meet the needs of customers now and in the future is more appropriate than a *new* strategy. The latter implies that what went before did not work rather than it needs to evolve to meet the new challenges you have identified.

Before we turn to the specific components of the draft 2014-15 programme we would like to make a general point about the overall scope of the draft forward programme. While all the key work components are clearly described, the draft programme makes no distinction about the relative importance of each, unless we assume they are listed in a prioritised order. We would want to see the successful delivery of the 2014 Price Review as the top priority. It would be helpful if the final forward programme sets out your prioritised list of work components and the costs and resources required to deliver them. We note you have already identified the costs for Thames Tideway Tunnel separately. It would be helpful if you could extend this cost breakdown across the whole forward programme by component.

2014 Price Review

We welcome the clarity you have recently provided around the remaining PR14 programme and encourage you to avoid any further amendments or changes to the planned programme. We are concerned that the consultations on charging issues and service incentive mechanism (SIM) will only be finalised during the first quarter of 2014 after companies have already submitted final business plans. It remains unclear how companies will take your final approach into account.

We fully support the commitment to a review of the lessons learned from the 2014 price review.

Choice and trading arrangements

While we recognise the need for the work as outlined in the draft forward programme we would like to emphasise our support for changes to the regulatory framework that effectively and **efficiently** deliver the reforms included in the Water Bill. We are concerned to avoid substantial increases in costs that will ultimately be borne by our customers.

We would like to understand the work you intend to consult upon on how to achieve a level playing field for new entrants and avoid undue discrimination. Whilst fully supporting the principle of a level playing field, the decisions you take on minimum regulatory compliance standards can have significant resource and cost implications for smaller companies.

Board leadership, transparency and governance

We will be responding separately to your recent publication on Board leadership, transparency and governance.

Licence review

We are keen to support the work you plan to undertake with respect to the licence review and see the ongoing work to simplify licences and constructive discussion with companies on modifications to their licences as very important. We would expect the final forward programme to take into account of or reference the findings of the recent Defra review of the licence modification process.

Thames Tideway

We have no specific comments to make on the this programme of work other than to emphasise that we are a critical stakeholder to this project as over 90 per cent of our customers are also Thames Water sewerage customers.

Special administration arrangements

We support the intention to review the existing arrangements and are keen to see the outcomes of the report you publish. Given the potential financing implications from this issue we encourage you to develop an inclusive engagement programme with investors and other stakeholders.

Additional issue – pension deficit policy

We encourage Ofwat to include within its forward programme a consultation on its long-term policy for pension deficit repair funding (i.e. beyond the PR14 settlement). We are concerned that one reading of IN13/17 is that Ofwat has already made such a decision on this important issue, but we cannot recall any consultation about this. Please see the note at Appendix A which expands on this issue.

We hope that these comments help with the development of your framework and we look forward to seeing the final forward programme.

Yours sincerely,

Sent by email

Richard Moriarty
Director of Regulation

Appendix A: Information Notice 13/17 on Pension Deficit Repair Costs

We welcome Ofwat seeking to reduce uncertainty about the recovery of pension deficit repair costs for PR14 and beyond with your Information Notice 13/17 published on 31 October 2013. We would like to raise with you a couple of queries on which we would welcome clarification having now reviewed the detail of the Notice.

We support Ofwat in its desire to see the PR09 settlement honoured. Our query relates to the recovery of deficits that have arisen since then and deficits that are at risk of occurring in the future. Our understanding from your Information Notice is that Ofwat see these risks resting solely with management and shareholders.

You will appreciate that given the materiality of potential pension deficit repair costs, the regulatory arrangements for their recovery are very important to a number of stakeholders: our customers, our employees past and present, the Scheme Trustees, and our shareholders and creditors.

We would be keen for Ofwat to consider consulting interested parties before reaching a decision given we consider that there may be a number of important relevant considerations. We completely share your desire to ensure customers are appropriately protected. But we think an approach of ruling out any recovery of deficit repair costs in the future (regardless of whether a company has any control over these costs) could have important implications for the ability of some companies, in certain situations, to finance their functions.

There may also be some lessons from other regulatory practice. For example, we note that the Competition Commission in its review of Bristol Water and its recent review for Northern Ireland Electricity took into account the degree of influence or control the company had over pension deficit repair costs in setting the appropriate balance of risk to be shared between customers and shareholders.