



## **Modifications to condition B of Thames Water's licence to enable its Thames Tideway Tunnel activities to be regulated under a separate price control**

On 22 October 2014, Ofwat published a consultation on a proposal to make modifications to condition B of Thames Water's licence to enable its Thames Tideway Tunnel (TTT) activities to be regulated under a separate price control. The consultation ended on 19 November 2014.

The consultation did not concern the main construction activities of the TTT, which will be carried out by a separately appointed Infrastructure Provider (IP). The IP will be appointed following a competitive procurement process run by Thames Water and whose revenues will be determined under the terms of a project licence issued by us.

We received three responses to the consultation. On 8 December 2014, we made the proposed modifications to condition B of Thames Water's licence to enable its TTT activities to be regulated under a separate price control.

These modifications were made with Thames Water's agreement and the consultation was a statutory consultation required by section 13 of the Water Industry Act 1991. Section 195A of the Water Industry Act 1991 requires that we publish a notice setting out the reasons for a decision to modify licence conditions. This notice is made in compliance with that provision.

### **Background and reasons for the modifications**

#### **The Thames Tideway Tunnel**

The TTT project is of unprecedented scale, size and complexity in the water sector in England and Wales and will be the first project to be delivered under a new regulatory framework established by the Flood and Water Management Act 2010.

The project comprises the construction of the main tunnel component of a solution to reduce overflows of untreated sewage into the River Thames in order to achieve compliance with the Urban Wastewater Treatment Directive. It is anticipated that the asset will be constructed by about 2023.

Given the size, risk and complexity of the project, the UK Government has specified the project to be delivered by a third party IP and has set out that certain preparatory works within the specified project are to be carried out by Thames Water.

The [Project Specification Notice](#), which sets out the scope of the project, and the [Preparatory Work Notice](#), which sets out what Thames Water is required or permitted to do in relation to the project, were issued by the Secretary of State on 4 June 2014, coming into effect on 5 June 2014.

### **Reasons for the modifications**

Given the scale of activities for the TTT and the different risk profiles for the TTT as compared to the rest of Thames Water's activities, we consider it is important that there is a clear boundary not only between Thames Water's and the IP's activities in the project, but also between Thames Water's activities in the project and the rest of its activities.

This is necessary not only to ensure Thames Water delivers its activities in the project efficiently, but also to ensure effective regulation of those activities and to provide transparency for stakeholders. We consider this is best achieved by setting a separate, binding price control for Thames Water's activities in the TTT project. Licence modifications are necessary to have a separate price control for Thames Water's activities on the TTT in our final determinations for 2015-20, which we will publish on 12 December.

### **Responses received to the consultation**

We received three responses to the consultation – from Thames Water, the Consumer Council for Water (CCWater) and a private individual. [These responses are available on our website](#). We discuss these three responses below.

## **Enabling a separate price control**

Thames Water confirmed that it agrees with the licence modifications. It also suggested a few minor drafting changes to improve clarity of the licence, and we have implemented these suggestions.

CCWater stated that it recognised the potential benefits of having a separate price control for Thames Water's TTT activities.

## **Time limiting the TTT control**

We explained in the consultation Thames Water's view that the TTT price control should expire in 2020 and fold back into its wholesale wastewater control. We also set out our view that the TTT price control should endure, at least through to the end of the construction phase of the project.

Two of the three responses supported our view that the price control should not be time limited and Thames Water reiterated its view that it should expire in 2020. CCWater expressed the view that while it would like the arrangement to remain in place until the TTT is fully constructed and commissioned, it accepted the proposal in our consultation to make the price control provisions time limited and then to review this in the context of the next price review.

In order to reach agreement with Thames Water, we have accepted that the modifications should only be in place for the next price review. However, we have made it clear to Thames Water that we will revisit this issue before the next price review. This will allow us to take into account the emerging thinking about the methodology that will apply for the price review that will be conducted in 2019.

## **Other issues**

CCWater supported the proposed materiality threshold for interim determinations under the TTT price control. It also supported our commitment to consider further, in a separate consultation, an additional licence modification to enable further bill smoothing.

The response from the private individual raised a number of issues on the need, cost and choice of delivery model for the TTT, and the financing arrangements of Thames Water. These issues were not the subject of this consultation as the UK Government has already specified the project to be delivered by a third party infrastructure

provider and determined that certain preparatory works within the specified project must be carried out by Thames Water.

The private individual also set out a view that the proposed legal and regulatory structure for delivery of the TTT increases complexity at the expense of transparency. As discussed above, it is our view that the separate reporting and monitoring of Thames Water's activities on the TTT, which will be a requirement of the separate binding control, will increase transparency in the delivery of Thames Water's TTT activities.

## **Conclusion**

Having considered the responses to the licence consultation, we have modified Thames Water's licence to enable the separate price control for our final determination of Thames Water's price limits for the period 2015-20.

As stated above, and as stated in our consultation, we will consider further, in the period 2015-20, whether the provisions for a separate control should extend beyond 2020.

This modification became effective on 8 December 2014.

**Ofwat**  
**December 2014**