

T. Martin Blaiklock
Consultant
Infrastructure & Energy Project Finance

182 Broom Road,
Teddington,
Middlesex TW11 9PQ, UK

Tel: (44)-208-255-3851
E-mail: tmb laiklock@me.com

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Forward Program 2015-16

I wish to comment on the proposed OFWAT Forward Program, 2015-16. My comments fall into two categories:

a) **Procedure & Substance:**

- This Consultation was launched on Jan 14th, 2015 under the “What’s New” portal on the OFWAT website. To date it has yet to appear under the current “Consultations” portal on the website. This could invalidate the Consultation process. I recommend that this Consultation be placed in the formal “Consultation” portal soonest, and the submission date be extended by the number of days when this Consultation finally appears there.
- The Consultation muddles the concepts of ‘strategy’ and ‘programme’. The Strategy appears to be represented by the one-page “Trust in water” paper, which is understood to be, or have been, published in Jan 2015. However, this Strategy is devoid of aims and objectives, and so remains somewhat insubstantial. It is also trivial, viz. its representation by one side of paper.

The Programme is fair enough, laying out how the assumed Strategy is to be executed. The overall package, nevertheless, lacks coherence.

- The Strategy includes many laudable and noble aspirations, viz.

“To achieve trust and confidence the sector must listen to their customers and deliver outcomes which benefit customers today and in the future”.

“Delivering trust and confidence in vital public services is ambitious and will take time to achieve. And (sic.) we cannot do this alone”.

“If we succeed, we will see:..... customers confident in the service they receive at a price they can afford,....”.

Sadly, these laudable and noble aims are discarded in the proposed Programme in one particular, and not insignificant, instance, The Thames Tideway Tunnel. On the Tunnel project, OFWAT has failed to date to support the interests of Thames Water customers, i.e. 25% of the England & Wales population, - and seemingly seems destined via this proposed Programme to continue down that path. History will be the judge, but it is sad that OFWAT has allowed itself to fall into this dilemma.

Trust and confidence can only be achieved if the promoter of such aims consistently and sustainably applies such principles to benefit water customers.

b) **The Programme: The Thames Tideway Tunnel (“TTT”)**:

- TTT enjoys a special place in OFWAT’s Programme 2015-16 (ref. p. 33). TTT is, indeed, significant, representing the largest ever investment in the England & Wales water sector and affecting 25% of the customer base.

OFWAT’s argument for specifically including this project in its Programme is based on UK Government’s “endorsement” that it offers the “best-value” solution to reduce sewage discharges into the Thames.

- OFWAT’s role, nevertheless, is to support the justifiable investment plans of water Undertakers, provided those plans represent Value for Money for customers. OFWAT was not created to be an instrument of Government policy. It is for the Undertakers, as privatised, public service utilities, to operate within UK (& EU) environmental regulations and constraints and to justify any investments to OFWAT. It is not OFWAT’s role to facilitate and impose Government policy, other than as a regulator of services.

Hence, on TTT OFWAT has subordinated customer interests to Government policy, which sets a dangerous precedent. It also undermines at a stroke the laudable aims of the “Trust in water” strategy.

- TTT is to cost £4bn. and take 7 years to build. Hence, the completion and financial risks are significant. Further, much of these risks are to be borne by TW customers, not, as is normally the case, the Undertaker(s).

TW customers, it is understood, will have to start to pay for TTT from the start of construction. Customer Value for Money, therefore, will have to be justified comprehensively for such a structure to be politically acceptable.

To date, TW has not contacted its customers at all with respect to the increased bills they will face and why.

- The decision to build TTT was taken in 2005/6 supported by a cost-benefit analysis, which showed a £1.7bn cost against a £3-5bn benefit. At that time, the decision was arguably justified.

Today, TTT remains un-built. Against the same scenario, but using today’s data both for TTT and any alternative options that may be currently available, plus taking into account system changes and improvements which have been achieved through TW’s own on-going investment program, the “expert” who chaired the original 2005/6 decision group (of OFWAT, Env. Agency, TW and the GLA), viz. Prof Binnie, has claimed (Dec 2014) that the Thames already meets EU environmental requirements, i.e. TTT is now not needed.

Value for Money” [“VfM”] is a subjective concept but, given the inherent costs for TTT, it is potentially crucial. The differences between the VfM assessments made 2005/6 and today are startling.

Given that OFWAT accepted the support and advice of this expert in 2005/6, such advice given today cannot not be dismissed out of hand, as seems to be the case.

Nevertheless, OFWAT seemingly, is ignoring this information, hiding under the cloak of Government policy.

OFWAT has a duty, legally and/or “of care”, to re-examine the Value for Money of TTT. To date they have not,..... and the Undertaker is continuing to spend hundreds of £ millions on customer’s behalf for an investment which is arguably not needed.

- This lack of regulatory oversight and control by OFWAT over an Undertaker (TW), - a company domiciled and controlled from a tax-haven, - could, in the course of time, be political suicide for OFWAT.

It is tantamount to TW buying a car today, on behalf of, and to be paid for by, TW customers, on the basis of an assessment made in the 2005/6 edition of “Which Car”.

- To add to the above flaws, the original “Value for Money” assessment for TTT was undertaken in line with “The Green Book”, i.e. in ‘real’ terms, ignoring the impact of inflation, etc.. The reality is that Thames Water and its customers live in an actual, or “nominal”, world, i.e. inflation impacts on their costs and revenues. Technically, therefore, the Value for Money” assessment for TTT has been undertaken using the wrong tools. The 2014 report published by NAO on this topic in the context of PFI showed clearly how flawed this procedure has been for Government over recent years.

[As a trainer on infrastructure finance, I have yet to find another government, which follows the same procedures on such matters as the UK Government! All other governments live in a ‘nominal’ world!].

- Conflicts of interest abound in this scenario, and OFWAT is standing by with little, or no, intervention. The original cost estimate for TTT was provided by Halcrow, a UK consultancy company with much experience in the water sector. But Halcrow, - or its successor, CH2MHill, - is advisor, designer and project manager for TW, the TTT project and the TTT Project Company (IP). Where has there been any independent check on costs, assessments, choices, etc.? Such scenarios can provide a platform for corrupt practices.
- In this context, the issue of flooding arises, and it is noted that this topic is absent from the Programme. There is an inter-dependency between water management and the issues which give rise to flooding. Any national flood management plans need to be inter-locked with those of the water Undertakers, et vice versa. In many ways, TTT is an outcome of flooding issues.
- In this context, the Environment Agency is currently studying and developing strategies for flood management nationally.

However, adding to the lack of transparency on TTT, OFWAT should be aware that the Environment Agency has awarded in Dec 2014 a £300mn contract to CH2MHill to manage and deliver the Lower Thames and Thames Estuary Flood Management Strategy, work which will have a close interface with Thames Water.

Furthermore, CH2MHill is to peer review The Upper Thames Flood Management Strategy as well, which has been awarded to another company, which the Environment Agency sued for bad design and faulty project

management over the (first) Jubilee River project in 2006! As this second contract on the Upper Thames includes plans for a second Jubilee River, communities along the Thames, - which represent most of TW customer base, - will question the integrity of any plans produced, given the inter-relationships and lack of transparency and independence for both water and flood management plans in the region.

The above seems to be in direct contrast to OFWAT aspirations.

Whereas Flood management is not directly part of OFWAT's remit, the role of Undertakers such as TW in such plans is very close, if not intertwined, such that over the course of time OFWAT may be dragged into such scenarios.

The Programme should anticipate such a development.

T.M.Blaiklock
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