



Water Services Regulation Authority

Water Industry Act 1991 Section 8(3)

Proposal by the Water Services Regulation Authority (Ofwat) to vary the Appointments of SSE Water Limited (SSE Water), Northumbrian Water Limited (Northumbrian Water)¹ and Thames Water Utilities Limited (Thames Water) as water and sewerage companies at Barking Riverside Phase 2+

This notice is a consultation on this proposal. The consultation period will last for 28 days. Having considered any representations submitted in response to the consultation, Ofwat will decide whether or not to make the variations to these companies' appointments.

The Site

SSE Water has applied to be the water and sewerage services company for a development consisting of 661 household properties at a site called Barking Riverside Phase 2+, in Barking, Essex (the Site). The Site is at present within the Water Supply Area of Northumbrian Water and the Sewerage Services Area of Thames Water. It is an extension to an already existing development of 629 household properties called Barking Riverside. Ofwat granted a variation in June 2011 so that SSE Water could serve Barking Riverside. SSE Water expects the 661 properties at Barking Riverside Phase 2+ to be fully built by 2020.

The proposal

Ofwat proposes to:

¹ Note that in the area of the Site, Northumbrian Water trades as Essex and Suffolk Water.

- (i) vary the appointment of SSE Water as a water and sewerage company by adding the Site to its Water Supply and Sewerage Services Areas; and
- (ii) vary the appointment of Northumbrian Water as a water company by excluding the Site from its Water Supply Area; and
- (iii) vary the appointment of Thames Water as a water and sewerage company by excluding the Site from its Sewerage Services Area.

By means of these variations, SSE Water will become the water and sewerage supplier for the Site.

Policy for new appointments and variations

The new appointment and variation mechanism, set out in primary law², provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee as the provider of water and / or sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a site – who do not have a choice of supplier – are adequately protected. When assessing applications for new appointments and variations, the two key policy principles we apply are that:

1. customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
2. Ofwat must be satisfied that an applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company.

² The legal framework for new appointments is set out in the Water Industry Act 1991 (WIA91). Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 of the WIA91 sets out the procedure for making that appointment or variation.

We clarified these two policy principles in February 2011 when we published our 'New appointments and variations – a statement on our [policy](#) and [process](#) for new appointments and variations'. In November 2012, we published '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers. These include not only the customers of the existing provider but also customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

The application

SSE Water has applied to be the water and sewerage company for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991.

Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment is made, none of the premises in the proposed area of appointment is served by the existing appointee.

SSE Water has provided us with confirmation from both Northumbrian Water and Thames Water that they consider the Site to be a greenfield site, and that it is unserved. Having considered the information that we have received about the Site, we are satisfied that the Site is unserved.

Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of end-customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen

their supplier is not a position unique to new appointments – very few customers in England and Wales are able to choose their supplier³.

Recognising this, our assessment of an applicant's proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee. We will continue to protect customers on the Site by regulating the new appointee's prices and service levels.

Customers on the Site - price

As indicated above, this application is to allow SSE Water to serve phase 2 of an already existing development named Barking Riverside. SSE Water will take water from an existing connection at the northern boundary of the Site which already serves Barking Riverside and will discharge sewage from the Site into Thames Water's sewers.

SSE Water will match the existing metered water and sewerage household tariffs of Northumbrian Water and Thames Water respectively. SSE Water is not offering a discount on these tariffs. The WaterSure tariff will be available to those customers that apply and qualify for it⁴.

Having considered SSE Water's pricing proposals, we are satisfied that customers will be at least no worse off in terms of their annual bills than if they had been served by Northumbrian Water and Thames Water.

Currently, SSE Water's conditions of appointment provide that SSE Water's price limit is set by reference to the charges of the previous providers for each of its sites. In this case, SSE Water may not charge customers on the Site

³ The only customers that can normally choose their supplier are non-household customers that consume at least 5MI per year and are supplied by a company that is wholly or mainly in England (and at least 50MI for companies wholly or mainly in Wales) and satisfy the Water Supply Licensing (WSL) eligibility criteria. Those non-household customers that consume at least 50 MI in England (and at least 250 MI in Wales) can switch suppliers under either the WSL regime or under the new appointments regime.

⁴ Through the WaterSure scheme, households on meters who receive certain means tested benefits or tax credits, and are either responsible for three or more children under the age of 19, or have a medical condition which requires significant additional use of water, can apply to pay no more than the average household bill for their region.

more than Northumbrian Water's charges for water and Thames Water's charges for sewerage services. We consider that, given SSE Water's size, this represents a more proportionate way of regulating its prices than subjecting it to a full bespoke price review as we do for larger companies. However, condition B of SSE Water's conditions of appointment allows us to set a specific price limit for SSE Water. This condition is temporarily suspended but we will activate it when we consider it is appropriate to do so. This is unlikely to be before 2019.

Customers on the Site - levels of service

SSE Water is subject to the same customer service level requirements as other water and sewerage appointees.

Guaranteed Standards Scheme (GSS) compliance and base service levels

SSE Water has submitted information about its proposed service levels, under:

- the statutory requirement of the GSS Regulations;
- our service indicators; and
- its own company standards.

We have assessed these planned levels of service and are satisfied that they match or exceed those typically achieved by Northumbrian Water, Thames Water and the sector as a whole.

Codes of Practice

Every appointee is required under conditions G, H and I of its conditions of appointment to publish debt, leakage and customer Codes of Practice. We have assessed SSE Water's Codes of Practice, and are content that these are of an approvable standard and that customers on the Site would be no worse off in terms of service than if they had been served by Northumbrian Water or Thames Water.

SSE Water's voluntary standards

We have made a detailed check of SSE Water's voluntary service standards, including where it enhances the statutory GSS provisions. We require that

SSE Water matches or exceeds Northumbrian Water's and Thames Water's own standards (except where there is reasonable justification for not doing so).

Examples of where SSE Water will offer improved customer service compared with Northumbrian Water and Thames Water include:

- SSE Water has a more generous free leak repair scheme for domestic customer supply pipes. It offers unlimited free repairs and replacement, whereas Northumbrian Water will only repair one leak at a property in a 3-year period, and only offers a subsidy towards replacement. (However, for a new build site leakage should be less likely which makes it an easy option for SSE Water to offer an improved policy).
- The opening hours for SSE Water's bill enquiries line are longer than Northumbrian Water's (8am-6pm Mon to Fri and 8am-1pm Sat) but not as long as Thames Water's (8am-8pm Monday to Friday and 8am-6pm on Saturday); whereas SSE Water offers 8am-8pm Mon-Fri and 8am-2pm Sat.
- SSE Water will make higher GSS payments in a number of areas, for example offering £50 for failing to keep appointments (without giving the customer 24 hours' notice), compared with Northumbrian Water's £30 and Thames Water's £50; and £50 for low pressure compared with Northumbrian Water's £25.
- SSE Water also offers several additional standards which Northumbrian Water and Thames Water do not offer. For example, SSE Water will pay £30 if it fails to read a customer's meter once per year; £35 if it does not make a refund within 10 days for an overpayment due to company error; and £35 if it refers a debt to a debt collection agent which proves to be pursued in error or if the agent acts improperly.

However, SSE Water does not propose to match Northumbrian Water and Thames Water in some ways, for example:

- SSE Water does not currently offer such an extensive range of services as Northumbrian Water and Thames Water for customers with special needs. For example, Thames Water offers a sign language interpreter for customer visits, coloured background bills for dyslexic customers, and an email service for screen-reading software users; and Northumbrian Water offers sign language interpreters.

- SSE Water does not offer as extensive a range of payment options as Northumbrian Water and Thames Water, although the range it does offer is adequate.
- SSE Water does not currently have a charitable trust fund, whereas Thames Water and Northumbrian Water do. However, several other incumbents do not offer a charitable trust or assistance funds.

Whilst the areas in which SSE Water does not propose to match Northumbrian Water and Thames Water are not statutory or appointment requirements, we have explained to SSE Water that these areas must be kept under review as its customer base expands. SSE Water has committed to do so. As SSE Water extends into different existing appointees' areas, all Codes will be assessed against other existing appointees' policies, and we will request improvements we judge are required as its customer base grows.

Having considered SSE Water's overall proposed service levels, and compared them with those of Northumbrian Water and Thames Water, we are satisfied that customers on the Site will receive a level of service that is comparable with the level of service that they would have received had they been served by Northumbrian Water and Thames Water.

Developer choice

Ofwat takes into consideration the choices of the site developer. In this case, the Site developer has said that it wants SSE Water to be the water and sewerage company for the Site.

Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to consultation on an application for a new appointment. Both EA and DWI informed us that they are content for us to consult on this application.

Northumbrian Water's and Thames Water's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Northumbrian Water's and Thames Water's existing customer base may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try and quantify the possible effect in an easily understandable way.

Broadly, we have assessed the potential magnitude of this impact by comparing how much Northumbrian Water and Thames Water might have expected to receive in revenue from serving the Site directly, with the revenues they might expect from serving the Site indirectly via bulk supply and discharge agreements with SSE Water. The lower bound of the range takes into account the benefit to Northumbrian Water and Thames Water as a result of SSE Water serving the Site, by estimating the costs that Northumbrian Water and Thames Water are likely to avoid, such as retail costs and capital and operating costs associated with the local network used to serve the Site. The upper bound of the range does not take these avoided costs into account. We look at these differences in revenue and costs over a hundred year timeframe to reflect the long life of the assets that will be used to supply customers at the Site.

In this case, we have calculated that if we grant the Site to SSE Water, there may be a potential impact on the bills of Northumbrian Water's existing customers of between £0.03 and £0.07, while there may be a potential impact on the bills of Thames Water's existing customers of between £0.01 and £0.02.

We are comfortable that these ranges account for the uncertainty in the costs that may be avoided by Northumbrian Water and Thames Water.

Further, this impact does not take into account the potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites. We set out the wider benefits we believe stem from the new appointments and variations mechanism below.

Wider benefits

The new appointment and variation mechanism provides a means for companies from outside the water and sewerage sectors to enter the market and for existing water and sewerage appointees to expand their businesses.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers in different ways (such as developers of new housing sites and household and non-household customers). Examples of benefits delivered via the new appointment and variation mechanism include price discounts, better services, environmental improvements and innovation in the way services are delivered. Benefits can also accrue to the existing appointee's customers, because when that appointee faces a challenge to its business that challenge can act as a spur for it to raise its game.

These wider benefits that we believe stem from the new appointments and variations mechanism are set out more fully in our [policy statement](#).

Overall assessment of effect on customers

Overall, we consider that customers on the Site will be at least no worse off with this Site being served by SSE Water than they would have been, had the Site been served by Northumbrian Water and Thames Water. We consider that the potential effect on Northumbrian Water's and Thames Water's existing customers is very likely to be offset by the wider benefits of the new appointment and variation mechanism. We are therefore satisfied that customers would be no worse off as a result of our granting this variation.

Ability to finance and properly carry out its functions

We have statutory duties to ensure that efficient appointees can finance the proper carrying out of their functions and to ensure that those functions are properly carried out. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

In this case, SSE Water has satisfied us that it can finance its functions and that it is able to properly carry them out.

Conclusion and next steps

In assessing SSE Water's application for this variation, we have considered the general benefits of new appointments. We are satisfied that our two key policy principles have been met in this case, as customers will be no worse off, and SSE Water will be able to finance and carry out its functions.

We have also considered the effects of granting this variation on the existing customers of Northumbrian Water and Thames Water.

We are therefore minded to grant the appointment under the unserved criterion. We are consulting on our proposal to do so.

Where to send submissions

Any representations about, or objections to, this proposal should be sent in a single written submission to Brigitte Gaylor, Senior Associate, Ofwat, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA so as to be received no later than 20 April 2015. Submissions can also be emailed to: Brigitte.Gaylor@ofwat.gsi.gov.uk