

## **RESPONSE TO OFWAT CONSULTATION**

### **Licensing and policy issues in relation to the opening of the non-household retail market**

#### **Summary**

We welcome the opportunity to comment on Ofwat's consultation on licensing and policy issues in relation to the opening of the non-household retail market. We offer the following points:

- We agree with the proposal to have separate licences for water and wastewater retail.
- The new appointment conditions need to protect customers in the case of emergencies and interruptions.
- We support the three basic elements of financial stability, managerial competency and technical competency in assessing future applications.
- The certificate of adequacy should be flexible, to address any material changes in year.
- We currently comment on new supply arrangements. In principle we agree with the need to comment on wastewater licence applications but as a new duty we will not take this on until we are clear on how this work will be funded.
- We would like to be consulted on how trade effluent consents for both existing and new customers will be dealt with to ensure that variations in practice are addressed so that the environment is adequately protected.

#### **1.0 Introduction**

- 1.1 The UK Government will open a retail market that provides choice to eligible non-household customers in England and Wales by April 2017.
- 1.2 As a statutory consultee on the market codes and related retail market development, we are responding to the consultation questions relevant to our role.

#### **2.0 Environment Agency response to the specific consultation questions.**

##### **2.1 Question 1: Do you agree with the proposal to have separate licences covering water and wastewater retail? If not, please explain how you envisage that a single licence for water and wastewater would differ?**

- 2.2 We agree that it is sensible to have separate licences covering water and wastewater retail.

##### **2.3 Question 11: Do you agree with our proposals for the conditions within table 4. Please respond separately on each of the three Appointment conditions (Q, G and I) discussed.**

2.4 Our responses on these proposals are as follows:

G – Code of practice for customer complaints and emergencies: Customers need clear information on what to do in emergencies and how to contact Consumer Council for Water (CC Water).

I – Code of practice for leakage: The obligation to compensate customers when a leak occurs and the customer repairs it should be maintained.

Q – Interruptions to supply because of drought: We agree with the proposal that the wholesaler will make a payment to the retailer who will then pass it onto the customer promptly and in full.

**2.5 Question 19: Do you agree that we should retain the three basic elements of financial stability, managerial competency and technical competency in assessing future applications?**

2.6 Yes, we support the retention of the three basic elements proposed.

2.7 The technical competence assessment for sewerage services will need to consider the following aspects: drainage, sewerage, trade effluent treatment and conveyance, incident handling, chemicals, environmental issues, and sustainable drainage systems. For water supply services it will need to include the water efficiency duty and management of planned and unplanned events including droughts. The technical competency test currently asks that the applicant be aware of the role of the Drinking Water Inspectorate (DWI) and its responsibilities under the law and regulations. This should be extended to assess the duty to promote the efficient use of water under section 93A of the Water Industry Act 1991. This would make sure that both wholesalers and retailers are able to meet government policy objectives on water efficiency when they apply for their licences.

**2.8 Question 21: Do you have any comments on the proposal that licence applications for the future market should include the provision of a completed certificate of adequacy?**

2.9 Yes. The proposed annual review of the certificate of adequacy should be extended so that it is initiated should there be any other material change such as an event, incident or significant increase in customer numbers.

**2.10 Question 22: Do you have any comments about the coverage of wastewater in the licence application process and the role played by the Environment Agency?**

2.11 We currently comment on new supply arrangements. In principle we agree with the need to comment on wastewater licence applications but before taking on this new duty we need to understand how this work will be funded. In any case we would endeavour to apply a pragmatic approach that centres on our role and responsibilities to protect the environment.

**2.12 Question 24: Do you have any comments about the proposals to include coverage of customer facing systems in the managerial competency tests?**

2.13 We agree that there should be some testing of customer facing systems and managerial competency to ensure a good level of service for customers and to avoid any lack of confidence.

**2.14 Question 31: Are there any additional provisions that you think it would be helpful to include in a licence condition on company readiness or any other comments/concerns you would make?**

2.15 Existing water and sewage companies (WaSC) arrangements for trade effluent consents are varied. New retailers should be collecting consistent information using standard application forms. How these applications will be processed, quality assured, and consented is not clear.

**2.16 Question 33: Do you have any suggestions about the best approach to ensuring that the new market arrangements are proportionate for a) smaller wholesale companies and b) small retailers.**

2.17 A series of readiness and/or competency checks would be useful to test whether smaller retailers and wholesale companies are able to meet the requirements and help understand the impacts of them. These should test whether arrangements for smaller companies should be relaxed given the importance of water and sewerage services. We would like to be involved in any workshops which test the arrangements for small wholesale and retail companies and are relevant to the Environment Agency's regulatory duties.

### **3.0 Conclusions or recommendations**

3.1 We support Ofwat's opening of the non-household retail market and recognise its importance to the future of the water industry. We will continue to support Ofwat and Open Water in this developing area where we are able to under our regulatory role.

#### **Further information**

Further information or background to this response can be obtained from Pete Fox, Director of Land, Water and Biodiversity, by post at Environment Agency, Richard Fairclough House, Knutsford Road, Warrington, WA4 1HT or by telephone on 01925 542344 or by e-mail at [pete.fox@environment-agency.gov.uk](mailto:pete.fox@environment-agency.gov.uk)

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