



## OFWAT BOARD

Meeting held on Monday 13 November 2006

### Members

#### **Chairman**

Philip Fletcher

#### **Chief Executive:**

Regina Finn

#### **Non-Executive Directors:**

Jane May

Peter Bucks

Penny Boys

#### **Executive Directors:**

Keith Mason

Melinda Acutt

### In attendance:

Roger Dunshea (Director of Operations)

Fiona Pethick (Head of Corporate Affairs and Secretary to the Board)

Sue Cox (Acting Head of Consumer Affairs)

Huw Brooker (Head of Legal Services)

Louise Craig (Minute Secretary)

Peter Jordan (Senior revenues analyst) item 6

Jennifer Ngai (Revenues analyst) item 6

Paul Hope (Head of Tariffs) item 7

James Gilchrist (Tariffs policy analyst) item 7

Ingrid Olsen (Competition Commission Reference Team Leader) item 8

Sally Birse (Graduate trainee) item 8

Phillip Dixon (Head of Competition) item 9

Paul Morris (Competition policy manager) item 9

### **1. Welcome and apologies for absence.**

There were no apologies for absence.

### **2. Declarations of interest.**

Peter Bucks declared that he had acted for Mid Kent Water when they were subject to a previous bid by South East Water. The Board agreed that this would not prevent him participating in discussion and decisions around the current merger.

### **3. Minutes and actions arising.**

The Board approved the minutes of the previous meetings of 9 October and 30 October 2006. The minutes will be published on the Ofwat website.

#### **4. Chief Executive's report.**

Regina Finn presented her Chief Executive's report. The following issues were discussed:

- Albion (Shotton) case: Regina Finn had been asked to attend the Competition Appeal Tribunal's (CAT) case management conference on 20 November 2006. Ofwat's preference would be for Albion Water to focus on one route forward in the case (either the bulk supply option or the access pricing option). After further consideration the Board agreed that Ofwat would not apply to the CAT for permission to appeal the judgment of 6 October by the 17 November deadline but would reserve its ability to consider appealing depending on further developments and any further judgments.
- Progress with the sale of Thames Water, changes in Thames Water's Board, progress in meeting its section 19 undertaking, and progress on evaluating option for the Thames Tideway.
- Ofwat's meetings with stakeholders including the Water Saving Group chaired by Ian Pearson.
- The NAO investigation on water resource management.
- The companies' preparations for the possibility of a third dry winter.
- Progress with regulatory investigations at Severn Trent, Southern and Thames Water.

#### **5. Draft forward programme.**

The Board received a draft of the forward programme for public consultation. The Board suggested a number of improvements to the structure and content of the report and asked that climate change issues appear more prominently. The Board would see a further draft before publication in December.

#### **6. Revenue incentives and policy options.**

The Board looked at the issue of revenue outperformance. The Board endorsed the recommendations in the paper to;

- undertake work to improve Ofwat's scrutiny and challenge of revenue forecasts;
- carry out preliminary work to investigate options for altering incentives;
- depending on the outcome of the preliminary work, decide whether to undertake further investigation into gain sharing mechanisms and for a revenue cap; and
- include a paragraph on this work in the draft forward programme.

#### **7. Tariffs strategic policy issues.**

The Board agreed in principle to a proposal from a company to introduce a new tariff to help customers who cannot pay their bills and reviewed other significant company proposals. The Board delegated the approval of the detail of the remainder of the 2007-08 charges schemes to the Chief Executive.

## **8. Company mergers.**

The Board supported the draft framework for Ofwat's first submission to the Competition Commission inquiry on the acquisition of South East Water by the Utilities Trust of Australia and Hastings Diversified Utilities Fund. The Board agreed that, because the proposed merger between Mid Kent and South East Water would reduce the number of companies Ofwat can use as comparators, this would cause detriment to Ofwat's ability to make comparisons. Our initial submission should reflect this. The Board would consider possible remedies before providing our views to the Commission.

The Board agreed to discuss issues around mergers including possible economies and the diseconomies of scale of mergers between large companies at a future meeting.

## **9. Approach to competition**

The Board received a 'trailer paper' on market competition. The paper introduced the issue ahead of more substantive discussions planned both on this and on proposals for handling applications for inset appointments for the Board meeting in December.

## **10. Financial report April to September 2006.**

The Board received and accepted an update on Ofwat's financial performance for April to September 2006. It was agreed that Ofwat would not be seeking a special fee from companies in 2006-07. A letter will be sent to all Regulatory Directors explaining this.

## **11. Future papers.**

The Board discussed the programme of papers for future Board meetings, and arrangements for its away day in February 2007.

## **12. AOB.**

The Board endorsed the strapline 'Ofwat: Protecting consumers, promoting value and safeguarding the future'.

**Louise Craig.**