

Water Services Regulation Authority

Water Industry Act 1991 Section 8(3)

Proposal by the Water Services Regulation Authority (Ofwat) to vary the Appointments of Albion Water Limited (“Albion Water”), Northumbrian Water Limited (“Northumbrian Water”)¹ and Thames Water Utilities Limited (“Thames Water”) as water and sewerage companies.

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

Albion Water has applied to be the water and sewerage services company for a development consisting of 425 household properties at a site called Five Oaks Lane, in Chigwell, Essex (the Site). The Site is at present within the Water Supply Area of Northumbrian Water and the Sewerage Services Area of Thames Water. Albion Water expects the site to be fully developed by 2023.

The proposal

Ofwat proposes to:

- (i) vary the appointment of Albion 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, Albion Water will become the water and sewerage supplier for the Site.

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

Policy for new appointments and variations

The new appointment and variation mechanism, set out in primary legislation², 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.

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

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 sets out the procedure for making that appointment or variation.

Albion Water has applied to be the water and sewerage company for the Site under the unserved criterion set out in section 7(4)(b) 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. Albion Water submitted a report (from an independent professional advisor appointed by it) which verified the Site as unserved for water and sewerage services. We shared this report with Northumbrian Water and Thames Water, who both agree that the Site 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

Albion Water will take a bulk supply of water from Northumbrian Water to supply the Site, and will construct a new sewage treatment works and sewerage network in order to provide sewerage services to the Site. Albion Water expects the sewage treatment works to be fully operational in July 2016, while it expects people to move onto the Site in January 2016.

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.

Contractual arrangements are in place for the developer to provide tankering up to the point that the sewage treatment works is commissioned. It will become Albion Water's responsibility to provide tankering after this time, should the commissioning of the works be delayed.

To mitigate the impact of site traffic and in particular tanker movements, the developer is planning to install a haul road for site traffic adjacent to the development, which will reduce the disturbance to customers.

Albion Water proposes to offer customers a 5% discount on the volumetric charge for sewerage compared to that of Thames Water, while matching Northumbrian Water's fixed and volumetric water charges. Albion Water also proposes to provide a separate supply of non-potable water, and it proposes to peg its charges for non-potable water to Northumbrian Water's charges for potable water, with a 5% discount on Northumbrian Water's volumetric potable water charge.

Having considered Albion 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, Albion Water's conditions of appointment provide that its price limit is set by reference to the charges of the previous providers for each of its sites. In this case, Albion Water may not charge customers on the Site more than Northumbrian Water's charges for water and Thames Water's charges for sewerage. We consider that, given Albion Water's small 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 Albion Water's conditions of appointment allows us to set a specific price limit for it. 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.

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

With regard to service levels, we have reviewed Albion Water's proposed service levels and compared these to the service levels and performance commitments of Northumbrian Water and Thames Water. Based on this review we are satisfied that customers will be offered an appropriate level of service by Albion Water and that overall customers will be 'no worse off' being served by Albion Water instead of by Northumbrian Water and Thames Water.

Guaranteed Standards Scheme (GSS) compliance and base service levels

Albion 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 Albion Water's Codes of Practice, and are content that these are of an approvable standard so customers on the Site would be no worse off.

Albion Water's voluntary standards

We have also made a detailed check of Albion Water's voluntary service standards, including where it enhances the statutory GSS provisions. We require that Albion 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 Albion Water will offer improved customer service compared with Northumbrian Water and Thames Water include:

- Albion Water offers several additional standards which Northumbrian Water and Thames Water do not offer. For example, it will pay £10 if it fails to despatch a receipt within five days of a request and it will pay £10 if it fails to discuss suitable times to carry out work directly outside of a customer's property where it might mean blocking access (except in an emergency).
- Albion Water allows customers 28 days to pay their bills before they become due. Northumbrian Water's and Thames Water's metered customer's bills are due on demand.

- Albion Water offers a more generous free leak repair policy on customer supply pipes and a more generous leakage allowance than Northumbrian Water. Albion Water will offer a repair and leak allowance for all leaked volumes for one leak per year whilst Northumbrian Water is limited to one leak every three years.
- Albion Water has enhanced payments for GSS standards, for example it will pay £30 if it fails the pressure GSS whilst Northumbrian Water will pay £25.

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

- Albion Water does not currently have a customer assistance fund, but Thames Water and Northumbrian Water do. Thames Water and Northumbrian Water also have social tariffs to support customers who have affordability issues. However, several other incumbents do not offer support funds or social tariffs.
- Albion Water's call centre opening hours are not as good as Thames Water's or Northumbrian Water's (Thames Water offers 8am-8pm Monday to Friday and 8am-6pm on Saturday and a 24-hour automated payment line. Northumbrian Water offers 8am-6pm Monday to Friday and 8am-1pm on Saturday. In contrast, Albion Water offers 8.30am-5.30pm Monday to Friday. All have 24-hour lines for emergencies).
- Albion Water does not currently offer such an extensive range of services as Thames Water or Northumbrian Water for customers with special needs. For example Thames Water and Northumbrian Water offer free magnifying cards/ sheets, free translation services, and either a free interpreter service or textphone service.
- Albion Water will make lower GSS payments in some areas than Thames Water. For example Thames Water will pay a customer £50 for missing an appointment, whilst Albion Water will pay £30 (Northumbrian Water also pays £30 for this standard).
- Northumbrian Water offers some standards that Albion Water will not match. For example Northumbrian Water will offer to pay an amount equal to a customer's water charges (up to £1,000) if they suffer flooding due to a leaking water main.

Having considered Albion Water's overall proposed service levels, and compared them with those of Northumbrian Water and Thames Water, we are satisfied that, when taken in the round, 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 Albion 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 bulk discharge agreements with Albion Water. The lower bound of the range takes into account the benefit to Northumbrian Water and Thames Water as a result of Albion 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 Albion Water, there may be a potential impact on the bills of Northumbrian Water's existing customers of between -£0.03 and -£0.02, while there is likely to be no impact on the bills of Thames Water's existing customers.

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 regime 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 regime 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 Albion 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 negligible and in any event is 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, Albion 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 Albion 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 Albion 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 Richard Field, Senior Associate, Ofwat, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA so as to be received no later than 19 November 2015. Submissions can also be emailed to: Richard.Field@ofwat.gsi.gov.uk