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Dear Ian

**Negotiating bulk supplies
Consultation on Ofwat's guidance**

SSE Water welcomes the opportunity to provide a response to the recent consultation on the above topic. The single question posed is as follows:

***Q1** Do you have any suggestions for how we could improve the draft guidance?*

As you may know, SSE Water is a new entrant to the water market, making use of the New Appointments and Variations (NAV) process referred to in the consultation and draft guidance. As such, the negotiation of wholesale bulk supply and bulk discharge agreements with incumbent water companies is vitally important to us – enabling us to supply our retail water services to customers in new build housing developments. We welcome the decision to publish guidance rather than model form agreements in order to avoid the establishment of default agreements and retain the flexibility to devise innovative solutions that are in the best interests of customers.

We set out below our comments on some aspects of the draft guidance, appearing in section 4 of the consultation. Overall, the headings and topics already cover the majority of aspects that we would wish to see reflected in any bulk supply or discharge agreements made between incumbents and NAV appointees. We do not make any points on the water trading aspects of such agreements between incumbents.

- In section 4.1 on 'price and non-price terms', the guidance for 'price terms' could also refer to the payment terms for any capital contribution associated with establishing the connection.
- In section 4.6 on 'adjusting charges periodically', we suggest that reference could also be made to making adjustments in line with changing demand volumes. This could allow access to different large user tariffs at an appropriate time, as may be relevant to



a housing development that is being built out over the course of a number of years.

- In section 4.9 on 'co-operation in emergency situations', the guidance could also set out the services to be provided by either party, e.g. in the event that an alternative supply of water, such as a bowser, is required. Particularly with respect to NAV agreements, it may be more efficient and a better way of working during an emergency to have such supplies co-ordinated or provided by one party.
- In section 4.10 on 'co-operation at times of water shortage', we recommend that the guidance also sets out that a principle could be included whereby equal treatment of both incumbent and NAV domestic customers is agreed. This could avoid a situation where, for example, NAV customers receive a lower bulk supply, which restricts individual customers' use of water in order to allow more unrestricted supplies to be maintained to the customers of the incumbent water company providing bulk supplies under the agreement.
- We believe it may also be worth including a new section in the guidance on 'review and variation of the agreement', which would link in to current section 4.13 on dispute resolution. This would allow for clauses setting out that at any time either party could require a review of all or any of its terms with a view to establishing that they remain reasonable and appropriate in the light of circumstances. For example, the following areas may change, particularly with the current programme of market reform at government level:
 - the statutory obligations and powers of the parties;
 - the statutory provisions and Authority guidance which would apply if the Agreement was being newly negotiated at that point in time; and
 - any other relevant circumstances applying.

The dispute resolution procedure could then be invoked in the case that agreement could not be reached on any variation sought by a party.

I hope these comments are helpful as Ofwat finalises its draft guidance on this subject. Please let us know if you would like to discuss any of these points further.

Yours sincerely

Aileen Boyd
Regulation Manager