

Northumbrian Water Wholesale response to the Ofwat Consultation on priority changes to Instruments of Appointment and Water Supply Licences for non-household retail market opening

Q1: Do you agree with the proposed drafting changes to the IoA and WSL in removing the in-area trading ban? If not, please explain why not and your proposed alternatives.

We support the removal of the in area trading ban, which should allow the market to develop efficiently. The drafting changes seem appropriate.

Q2: Do you agree with the proposed new readiness condition to be added to the IoA and WSL? If not, please explain why not and include your proposed alternatives.

Whilst we support the principle of a readiness condition, we do have concerns over the proposed wording in Section 1.2 (b):

*(b) identifying and gathering relevant data in relation to all Eligible Premises and supply points [to which it currently provides services][in its area], ensuring this data is **accurate** and ensuring it is in a form capable of being transferred to **any central systems** and/or any market operator established to operate the Competitive Market;*

The term 'accurate' is an absolute term that could generate significant legal dispute. It does not appear to allow for the likelihood of imprecise data, non material data errors e.g. spelling errors, gaps in non critical data. Given the experience in the Scottish market and the energy sector, where data is still being corrected and improved many years after market opening, we feel a more flexible term such as 'as far as is reasonably practical' should be inserted. Similarly, experience from Scotland suggests that there will be some missing eligible premises, despite the best endeavours to include them. We suggest inserting the word 'known' before Eligible Premises.

Finally, the reference to any central systems is too broad. Our data preparation is for the Central Market Operating System, as defined and specified by Open Water. At this stage, it would be impossible for the industry to meet an entirely different system's specifications. We propose removing these words, to avoid ambiguity.

Our Proposed Condition thus reads:

*(b) identifying and gathering relevant data in relation to all **known** Eligible Premises and supply points [to which it currently provides services][in its area], ensuring this data is **accurate as far as is reasonably practical** and ensuring it is in a form capable of being transferred to any market operator established to operate the Competitive Market;*

Q3: Do you have any comments about the use of existing s13 and s17J Water Industry Act 1991 (WIA91) powers to introduce the new readiness condition?

These powers are appropriate, but we would recommend a brief informal consultation on their wording before usage, as amendment is difficult after they have been formally issued.