

APPENDIX B – ANGLIAN WATER COMMENTS ON DRAFT CHARGING RULES

1. Definitions and Interpretation (paragraphs 5-6)

There are two very important definitions that we feel require more thought and would welcome a clearer section of drafting.

Fixed Charges

The concept is crucial to the framework as nearly all parts of undertakers' Charging Arrangements must include an "upfront Fixed Charge" option, but could be particularly problematic in respect of requisitions.

As drawn, the concept may be construed in a manner that does not permit any form of cost-reflectivity. This is because the charges' application must allow "calculation at the outset of the total amount". Clearly, the introduction of a variable element (such as the cost of the works, or possibly even just elements of the design, such as length or difficulty) into the methodology would bring the entire equation outside the definition. We are not sure then, on this definition whether this would permit the cost of the works to be taken into account, nor indeed other parameter that varies with the specifics of the site in question, but it would seem not. Such a restriction would appear to be at odds with the expression of OFWAT's emerging thinking in the body of the consultation document (particularly paragraph 3.3.2).

Although Anglian Water may have little difficulty in applying the rule as it stands to off-site infrastructure (covered by a fixed zonal charge as expressed in the covering letter), we would face the same challenge as perhaps other undertakers in applying it to on-site infrastructure (which we intend would have a cost-reflective element).

Site-Specific Works vs Network Reinforcement

These definitions are to be mutually exclusive. The first may be dealt with by connections Charging Arrangements, and the second in the overall Charges Scheme (under s.143B WIA91). There is no issue with that as a principle.

However, the execution of the drafting of the definition "Site-Specific" does not appear to hold together at all, and ought to be corrected.

Anglian Water's thinking, as set out in the covering letter, prefers infrastructure to be categorised and charged according to whether it is on-site or off-site. This would appear entirely possible however costs are "allocated" between Charging Arrangements and the Charges Scheme.

Nevertheless, if OFWAT prefers that off-site works can still be either Site-Specific or “wider network reinforcement” we think there is a real and valuable opportunity for a substantial expansion of a rule governing how they ought to be categorised.

2. “Timely and effective consultation” (paragraph 7)

This could be a challenging timetable and undertakers will need action in place very soon indeed for charging rules operable next April. We accept, however, that there is no real alternative to the draft rule: it is not as though it would be appropriate to radically alter charging methodology without timely and effective consultation.

3. Publication and Transparency (paragraphs 8-12)

We note in particular the section set out as follows:

“From [January 2018], the Charging Arrangements developed pursuant to these rules must set out how the Undertaker’s actual Network Reinforcement costs compare to the assumptions it used in developing its Infrastructure Charges. Undertakers must take these matters into account in setting their charges”.

We feel that this would benefit from more explanation. The requirement would not be at all straightforward. Annual review is challenging (in line with the annual charging review). Timescales should be longer than this, to reflect reasonable main-laying timescales, which can often span more than a year.

4. General Principles (paragraph 13)

We accept the general intent of the four guiding principles of fairness and affordability/ environmental protection/ stability and predictability/ transparency and customer-focused service.

However, we are not sure what is intended by their inclusion of them. We note that these four items are, in fact, the stated “objectives” that the Government set out to formulate its statutory guidance to OFWAT, and are perhaps not “principles” as such. Above all, since conflicts may arise in the application of two or more, and further that there are potential contradictions between the four objectives and other legal and regulatory obligations (for example, condition E of the Appointment), and their inclusion creates further uncertainty as to how undertakers are required to approach pricing decisions. Also, is it clear that charges and amounts that undertakers may wish to introduce for entirely other purposes (that do not particular further these objectives) are valid as long as they do not fly in the face of these objectives?

We think it is important that OFWAT sets out a complete, “holistic” policy statement governing pricing, so that undertakers and other stakeholders have clarity as to what rules they are operating under, and can therefore be held properly to account.

Otherwise, amongst other things, there is a risk that different undertakers may, in good faith, arrive at completely different interpretations of the regulatory requirements, which will not be a good thing.

5. Requisitions Charges (paragraphs 18-25)

Here and elsewhere, "Site-Specific" Works costs focus on the provision of items. There are no doubt ancillary costs (planning, assessment, design, land purchase) which are perhaps "in connection with" the works and therefore covered already by the rules (possibly paragraph 17), but it might be worthwhile providing for them specifically.

The option in section 42(4) (namely the ability to charge a second requisitioner in respect of capacity in a main requisitioned by a first requisitioner within the 12 years prior) does not seem to be specifically addressed. It perhaps should, as potentially it affects that balance between developers and other customers. If only on-site works will be covered by the rules (see the second part of section 1 above) which is Anglian Water's preference, then perhaps there is no need to consider this any further, as Anglian Water would deal with contributions to mains laid previously by a form of network reinforcement charge (possibly zonal in nature) set out in the charges scheme.

We welcome the introduction of choice as to income offset and the preservation of choice as to sewerage asset payments.

6. Diverting Pipes (paragraphs 34-35)

It is not completely clear as to whether the drafting means that standardised or normalised charges can be levied and we would seek clear drafting on the point.

7. Infrastructure Charges (paragraphs 38-43)

This section includes a statement that where Infrastructure Charges are applied in respect of the modification or redevelopment of existing buildings or premises, the calculation of any Fixed Charges must take due account of any previous usage associated with the buildings and/or premises to which the charges are to be applied and be discounted accordingly.

We would welcome an element of differentiation between household and non-household properties as household usage has a different (and often lesser) impact on undertakers' networks.