



## **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 and Thames Water as water 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 grant the variations to these companies' appointments.

### **The Site**

On 20 August 2013, Ofwat varied the appointments of Albion Water and Thames Water, enabling Albion Water to be 1) the appointed water provider and sewerage services provider to 368 new household properties (these properties are still being developed); and 2) the appointed sewerage services provider to 370 existing properties at the Rissington development in Gloucestershire, in Thames Water's area. Albion Water has now applied to be the water provider to 340 of the 370 existing properties at the Rissington development. The other 30 existing properties will continue to receive a water supply directly from Thames Water. In this consultation we refer to these 340 additional properties as the Site.

### **The proposal**

Ofwat proposes to:

- (i) vary the appointment of Albion Water as a water company by adding the Site to its water supply area; and
- (ii) vary the appointment of Thames Water as a water company by excluding the Site from its water supply area.

By means of these variations, Albion Water will become the water supplier for the Site.

## Policy for new appointments and variations

The new appointment and variation mechanism, set out in primary law<sup>1</sup>, 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. We consider that we must ensure that 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'.

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

Albion Water has applied to be the water company for the Site under the consent criterion, set out in section 7(4)(a) Water Industry Act 1991.

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<sup>1</sup> 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 of WIA91 sets out the procedure for making an appointment or variation.

## Consent criterion

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application.

In this case, Thames Water has consented to Albion Water becoming the water supplier for the Site. Albion Water provided us with a letter of consent from Thames Water, dated 24 June 2013.

## Original Rissington consultation

The consultation notice into a proposal to grant the original Rissington site can be found [here](#). The factual basis on which that variation was granted is unchanged by this application to supply water to 340 additional properties. To summarise:

- Albion Water will serve customers via a bulk supply agreement which it has entered into with Thames Water. Albion Water will match the water charges of Thames Water;
- Albion Water will offer the WaterSure<sup>2</sup> tariff to qualifying customers;
- if we grant the Site to Albion Water, there may be a potential impact on the bills of Thames Water's existing customers of between -£0.01 and £0.00;
- Albion Water has Codes of Practice for the Thames Water area in place;
- we are therefore satisfied that customers on the Rissington site will be no worse off being served by Albion Water rather than by Thames Water;
- we are satisfied that there is a low risk of the Rissington site being financially unviable; and
- we are therefore satisfied that Albion Water will be able to finance its functions.

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<sup>2</sup> The WaterSure scheme allows households on meters who receive certain means tested benefits or tax credits, and are either responsible for three or more children under the age of 19, or have a medical condition which requires significant additional use of water, to pay no more than the average household bill for its region.

## **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 its functions. We have also considered the effects of granting this variation on Thames Water's existing business.

We are therefore minded to grant the appointment under the consent 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 writing to Richard Field, Senior Case Officer, Markets and Economics Division, Ofwat, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA so as to be received no later than 9 December 2013. Submissions can also be emailed to:

[Richard.Field@ofwat.gsi.gov.uk](mailto:Richard.Field@ofwat.gsi.gov.uk).