



Water Services Regulation Authority Section 8(3) of the Water Industry Act 1991

Proposal by the Water Services Regulation Authority (Ofwat) to vary the appointments of South Staffordshire Water and Severn Trent 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

South Staffordshire Water has applied to be the water company to 215 new household properties at a site called Cadley Hill, in Swadlincote (the Site).

The Site straddles the water supply areas of South Staffordshire Water and Severn Trent Water.

The proposal

Ofwat proposes to:

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

By means of these variations, South Staffordshire 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 law¹, 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'.

The application

South Staffordshire 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.

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.

¹ 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.

In this case, Severn Trent Water has consented to South Staffordshire Water becoming the water supplier for the Site. South Staffordshire Water provided us with a letter of consent from Severn Trent Water, dated 13 November 2013.

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 supplier².

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.

Price

South Staffordshire Water proposes to charge all customers at Cadley Hill based on its usual metered charges for water set out in its charges scheme, irrespective of whether they are in South Staffordshire Water's area or in the formerly Severn Trent Water area. South Staffordshire Water's average bills are lower than those of Severn Trent Water ensuring that customers will be no worse off in terms of price.

Having considered South Staffordshire Water's pricing proposals, we are satisfied that customers will be no worse off in terms of their annual bills than if they had been served by Severn Trent Water.

² The only customers that can choose their supplier are non-household customers that consume at least 5 MI 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 under either the WSL or NAV framework.

Levels of service

Every appointee is required under conditions G, H and I of its conditions of appointment to publish Codes of Practice on debt, leakage and a Customer Code for its household customers.

South Staffordshire Water currently has a set of codes for its current appointment, which satisfy the relevant licence conditions. South Staffordshire Water's Customer Code of Practice sets out the standards of service its customers can expect to receive in a range of areas, and sets out the payments the company will make to customers if it fails to meet these standards. These satisfactorily cover the minimum requirements of the GSS Regulations³.

As an appointed undertaker, South Staffordshire Water is required to publish a set of Key Performance Indicators ('KPIs'). South Staffordshire Water's 2012-13 KPIs raised no concerns, with the company meeting leakage and security of supply targets and delivering a low level of supply interruptions. Additionally, South Staffordshire Water's overall Service Incentive Mechanism (SIM) score of 88 was the highest in England and Wales, reflecting a high level of customer service.

Having considered South Staffordshire Water's overall service levels, and compared them with those of Severn Trent Water, we are satisfied that customers on the Site will receive a level of service that is comparable with the level of service they would have received had they been served by Severn Trent Water.

Developer choice

Ofwat takes into consideration the choice of the site developer. In this case, the Site developer has said that it wants South Staffordshire Water to be the water company for the Site.

³ The Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008.

Environment Agency and Drinking Water Inspectorate

We take the views of these organisations into account before progressing to consultation on an application for a new appointment. Both the Environment Agency and Drinking Water Inspectorate informed us that they are content for us to consult on this application.

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 framework 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 being served by South Staffordshire Water than they would have been had they been served by Severn Trent Water.

Ability to finance the proper carrying out of functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. 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, South Staffordshire Water has satisfied us that it can finance its functions.

Conclusion and next steps

In assessing South Staffordshire 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 South Staffordshire Water will be able to finance its functions.

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 4 March 2014. Submissions can also be emailed to: Richard.Field@ofwat.gsi.gov.uk.