



## Variation of Albion Water’s appointment to include Rissington

On 20 June 2013, Ofwat began a consultation on a proposal to vary Albion Water’s appointment to become the water and sewerage services provider for a development in Thames Water’s area, called Rissington, in Gloucestershire (“**the site**”). When fully built, the site will consist of 368 new household properties and 370 existing household properties. The consultation ended on 18 July 2013. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 20 August 2013, we granted Albion Water a variation to its existing appointment to enable it to supply water and sewerage services to the site.

This notice gives our reasons for making this variation.

### Introduction

The new appointment and variation mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company 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 companies to expand into areas where they are not the appointed company. In this case, Albion Water applied to replace Thames Water as the appointed water and sewerage company for the site.

A company may apply for a new appointment (or a variation of its existing appointment to serve an additional site) if any of the following three criteria are met:

- None of the premises in the proposed area of appointment is served by the existing appointed company at the time the appointment is made (the “**unserved criterion**”);
- Each premises is likely to be supplied with at least 50 mega litres per year (in England) or at least 250 mega litres per year (in Wales) and the customer in relation to each premises consents (“**the large user criterion**”);

- The existing water and sewerage supplier in the area consents to the appointment (“**the consent criterion**”).

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our duty to protect consumers wherever appropriate, by promoting effective competition. In particular, in relation to unserved sites, we seek to ensure that the future customers on the 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:

1. Customers, or future customers, should be no worse off than if they had been supplied by the existing appointee; and
2. We 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.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers (such as household and non-household customers and developers of new housing sites). Benefits can include price discounts, better services, environmental improvements and innovation in the way services are delivered.

Benefits can also accrue to customers who remain with the existing appointee, because when the existing appointee faces a challenge to its business, that challenge can act as a spur for it to improve its services. We believe the wider benefits of competition through the new appointments and variations mechanism can offset any potential disbenefits for existing customers that might arise. We consider these potential disbenefits in more detail below.

## The application

Albion Water applied to be the water and sewerage services appointee for the site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). Albion Water will serve the site by entering into a bulk supply agreement with Thames Water, and it will operate an existing sewage treatment works on the site.

## Unserved status of the site

To qualify under the unserved criterion, an applicant must show that at the time the appointment or variation is made, none of the premises in the proposed area of appointment will be served by the existing appointee. We concluded that the site was

unserved based on information provided to us by Albion Water. Thames Water also confirmed that it agreed that the site is unserved.

## **Financial viability of the proposal**

We will only make an appointment if we are satisfied that the proposal poses a low risk of being financially non-viable. We assess the risk of financial viability on a site-by-site basis and also consider the financial position of the company as a whole.

Based on the information available to us, we concluded that the proposal was at low risk of being financially non-viable.

We considered the impact of granting this variation on the financial position of the appointee as a whole. Having done this we are satisfied that granting this variation poses a low risk of a significant negative impact on the financial position of Albion Water.

## **Assessment of 'no worse off'**

Albion Water will match both the fixed and volumetric potable water charges and fixed sewerage services charges of Thames Water. On the volumetric sewerage services charge, customers will be charged a 5% discount on the volumetric charges of Thames Water. Albion Water will peg its charges for non-potable water to Thames Water's charges for potable water, with a 10% discount on Thames Water's volumetric potable water charge.

We have approved Albion Water's Codes of Practice and Charges Scheme and are satisfied that customers will be offered an appropriate level of service. As such, we consider that customers will be 'no worse off' being served by Albion Water instead of by Thames Water.

## **Effect of appointment on Thames Water's customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the prices that Thames Water's existing customer base may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect on Thames Water. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try and quantify the possible effect in an easily understandable way.

Broadly, we have assessed the potential magnitude of this impact by comparing how much Thames Water might have expected to receive in revenue from serving the site directly, with the revenues it might expect from serving the site indirectly via a

bulk supply agreement with Albion Water. The lower bound of the range takes into account the benefit to Thames Water as a result of Albion Water serving the site, by estimating the costs that Thames Water is likely to avoid, such as retail costs and capital and operating costs associated with the local network used to serve the site. The upper bound of the range does not take these avoided costs into account. We look at these differences in revenue and costs over a hundred year timeframe to reflect the long-lived assets that will be used to supply customers at the site.

In this case, we have calculated that 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 per year.

We are comfortable that this range accounts for the uncertainty in the costs that may be avoided by Thames Water. It is important to note that we do not have information on the level of developer contribution that Thames Water would have received had it served the site. We have therefore used data on the level of developer contribution that Albion Water will receive as a proxy. Generally, this will understate the level of developer contributions, as we might expect a new appointee to offer more attractive terms to a developer than an incumbent in order to win the new development.

Further, this impact does not take into account the potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites.

## Developer choice

We take into consideration the choices of the site developer. In this case, the two developers said that they wanted Albion Water to be the water and sewerage company for the site.

## Responses received to the consultation

We received two responses to our consultation, from the Consumer Council for Water ("**CCWater**") and the Environment Agency. We considered these responses before making the decision to vary Albion Water's appointment. The main points raised in the responses are set out below.

### CCWater

CCWater re-iterated its concern about the cumulative effect of Ofwat granting new appointments and variations in the same existing appointee's area on the bills of existing customers. It said it is pleased that Ofwat is now providing more robust estimates, and that such potential impacts appear to be lower. However it is still

concerned that there is potential for existing customers to be worse off when we grant new appointments and variations.

Ofwat considered the above and came to the view that the potential cumulative impacts that concern CCWater will not arise or will not be material. While there may potentially be an impact in the short run, due to low capital maintenance associated with a new development, capital maintenance will rise as the assets on these new developments age. On average, an incumbent will have a mix of old and new assets and this would not materially change if the incumbent served new sites rather than a new appointee.

## **The Environment Agency**

The Environment Agency made no objections to us granting this variation, although it made the point that Albion Water should ensure the Rissington development is included in its Water Resources Management Plan (WRMP). We have reminded Albion Water of its statutory duty to prepare and maintain a WRMP.

It also supported Albion Water's proposal to adopt the private sewage treatment works at the site, which it considers enables better operation and maintenance, and minimises the risk of pollution.

## **Conclusion**

Having assessed Albion Water's application, and having taken account of the responses we have received to our consultation, we decided to grant a variation to Albion Water's area of appointment to allow it to serve the site for water and sewerage services. This variation became effective on 21 August 2013.