

Our Ref: IJAP/TB/KSP

Retail Market Opening Programme
Ofwat
21 Bloomsbury Street
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Retail Market Opening – Further Changes to all Instruments of Appointment

Dee Valley Water plc (Dee Valley Water) has considered the above consultation document published on 3 May 2016, and is pleased to provide its response to each consultation question in turn below.

Q1: Do you agree with the proposed new conditions summarised in Table 1.1?

Condition	Dee Valley Water Comments
MAC Condition	Dee Valley Water has reviewed the terms of the MAC and will enter into the framework agreement as the new condition requires. There does seem to be some unnecessary duplication however regarding process issues that are already outlined in the MAC. Provisions covering changes to the MAC seem to go beyond the stated purpose of the new condition (being to give effect to the MAC). We would seek confirmation that Ofwat has reviewed the proposed condition with this in mind ahead of the statutory consultation.
Stapling Condition	While the technical rationale for a stapling condition is understood, Dee Valley Water requires further clarification regarding what constitutes “written arrangements”. Details of Dee Valley Water’s market readiness approach are provided in response to Question 3 below. As an integrated appointee, we suggest that this condition should be deemed to be satisfied on completion of the market entry assurance process (i.e. MOSL is satisfied that the company has demonstrated appropriate separation of the wholesale and retail functions of the business), subject to Ofwat having an ongoing right to request access to relevant information necessary to demonstrate that compliance.
CPCoP	DVW previously reviewed the CPCoP and after a review of our existing processes we confirm that we have no concerns regarding our ability to comply with the CPCoP.

Q2: Do you agree with the proposed changes to existing conditions as summarised in Table 1.2?

Condition	Dee Valley Water Comments
Terminology	No comment.
Condition S	No comment.
Condition R1-4	No comment.
Condition F6 A.2A	No comment, subject to our market readiness approach which is outlined in our response to Q3 below.
Condition Q	No comment.
Condition G	No comment, subject to reviewing the proposed wording.
Condition I	No comment.
Condition R7-9	No comment.
Condition F6	No comment.
Condition R5	No comment

Q3: Do you consider that derogations may be required for small companies and/or companies whose supply systems are wholly or mainly in Wales, due to their number of eligible customers. Please state what any such derogations should cover.

As you are aware, Dee Valley Water is the smallest of the 18 water companies in the UK and has a water supply area mainly in Wales. Further, we do not have any plans to actively market or expand our retail capability in the market beyond taking reasonable steps to retain our eligible customers (of which we currently have under 20 which is less than 0.2% of our non-household customers) – all of which can currently choose a different supplier. What this means in practical terms is that the decision to introduce competition in the non-household water sector in the UK does not change the way in which we operate with respect to our eligible customers. We have not been funded by Ofwat to create a separate retail business, or to appoint additional staff to manage the market entry assurance process or to study and understand the terms of the WRC. We continue to engage actively in the small and Welsh companies group formed by Ofwat but as it stands we are subject to the same process requirements as the much larger companies intending to actively participate in the retail market. We are endeavouring to achieve the milestones set by

MOSL utilising existing resources in the business whose capacity is stretched and the use of external resources is cost prohibitive. We have been successful in doing so thus far.

Notwithstanding all of these challenges, we are committed to our market readiness plan, and we are working with MOSL to demonstrate how we will satisfy market requirements (including competition requirements) on a transactional basis. We consider this the most appropriate application of proportionality given that once we receive certification from MOSL and the market goes live, we expect interactions with licensees and the market operator to be very limited – up to a maximum of 20. In order to achieve certification on this basis, we are developing a series of process diagrams (PDs) which outline the way in which separation of the wholesale and retail functions are achieved within our integrated business so that competition requirements are satisfied. These PDs will be submitted to MOSL as part of the Annual Information Return and will complement the PDs set out in Annex A-I of the WRC.

In the recent small and Welsh companies workshop held by Ofwat on 16 May 2016, participants discussed the possibility of introducing a “WRC Lite” for small and Welsh companies, and Dee Valley Water supports this approach. Our limited resources prevent us from being able to provide comments on specific derogations from the requirements of the WRC within the requested timeframe. However, our view is that the key to compliance with the WRC by companies such as ourselves is to follow the PDs in Annex A-I on a transactional basis and we suggest that these PDs should form the basis of a redacted WRC. The other suggestion made in the recent workshop was for the introduction of a helpdesk for small and Welsh companies to utilise as and when a transaction occurs and help us work through the applicable PDs. We strongly support this suggestion as this would mitigate the risk of inadvertent non-compliance with the WRC because of its limited day to day application – in practice for DVW it could be many months between market opening and the first transactions and many months between transactions thereafter.

Q4: Do you agree with our proposal to use a combination of sunset and/or sunrise clauses for the changes so that we can implement these changes ahead of the Secretary of State’s decision on retail exit?

Dee Valley Water, being a Welsh company, does not have the option of retail exit and as such has no opinion on this proposal.

Q5: Do you agree with our proposal to use section 55 of the WA14 to make these changes?

While Dee Valley Water is of the view that perhaps not all of the changes proposed are in fact “necessary or expedient” in consequence of the retail market provisions, we do not propose to challenge Ofwat’s use of section 55 of the WA14 to seek to implement these changes in this response.

Q6: Do you have any comments on the proposed drafting set out in the Appendices?

If Ofwat elects to adopt our comments in respect of the proposed new licence conditions in Table 1.1, then there will be a number of consequential drafting changes required to:

- Draft condition 1.1 (Market Arrangements Code); and
- Draft condition 3 (Application of Wholesale Retail Code (Stapling Condition)).

We will be happy to propose specific drafting edits should our comments be adopted as part of the statutory consultation.

Conclusion

In closing, we reiterate our support for the retail market and our commitment to market readiness notwithstanding that Dee Valley Water and its very few eligible customers do not fit neatly into the process which suits the larger and better resourced organisations with a retail expansion agenda. Further, as stated above, our eligible customers can already choose their supplier.

We believe that we have suggested an approach which satisfies market principles while acknowledging our limited participation in the market. As we have outlined above, WRC compliance remains a key concern for Dee Valley Water and we will continue working with Ofwat on the finalisation of WRC derogations to mitigate the risk of inadvertent non-compliance by the small and Welsh companies.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'I. J. A. Plenderleith', written in a cursive style.

Ian Plenderleith
Chief Executive