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## Variation of South Staffordshire Water's appointment to include Tamworth West

On 26 April 2016, Ofwat began a consultation on a proposal to vary the appointment of South Staffordshire Water to become the water provider for a development in Severn Trent Water's water supply area called Tamworth West in Wilnecote (“**the site**”).

The consultation ended on 24 May 2016. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 15 June 2016, we granted South Staffordshire Water a variation to its existing appointment to enable it to supply water 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, South Staffordshire Water applied to replace Severn Trent Water to become the appointed water 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:

- customers, or future customers, should be no worse off than if they had been supplied by the existing appointee; and
- 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**

South Staffordshire Water applied to be the appointed water company for the site under the consent criterion set out in section 7(4)(a) of the Water Industry Act 1991 (“**WIA91**”), as Severn Trent Water consented to the appointment.

## **Financial viability of the proposal**

We will only make a new appointment or variation if we are satisfied that the applicant can finance its functions. In this case, South Staffordshire Water is a large, established undertaker. We collect regulatory information and accounts from South Staffordshire Water, which gives us no reason to be concerned about its ability to finance its functions. It has access to many sources of finance and this site would represent only a very small proportion of its total appointed business.

## Assessment of 'no worse off'

We have taken a proportionate, flexible and common-sense approach to the assessment of this application, because the only customers on the site will be two non-household customers, and the application involves two established appointees with one consenting to the other's application.

South Staffordshire Water will charge customers at Tamworth West based on its charges to its existing customers. These charges are currently lower than the charges of Severn Trent Water.

As an appointed undertaker, South Staffordshire Water is required to publish Codes of Practice on debt and leakage and a Customer Code for its household customers under Conditions G, H and I of its licence conditions. It has a set of Codes for its existing appointment that satisfies the relevant licence conditions.

As an appointed undertaker, South Staffordshire Water is required to publish a set of Key Performance Indicators ("KPIs"). South Staffordshire Water's 2014-15 KPIs raised no concerns, with the company meeting leakage and security of supply targets and delivering a low level of supply interruptions.

Therefore, we are satisfied that customers will be adequately protected.

## Developer choice

We take into consideration the choices of the site developer. In this case, the developer said that it wanted South Staffordshire Water to be the water company for the site.

## Responses received to the consultation

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

### Environment Agency

The Environment Agency made no objections to us granting this variation. It pointed out that based on information in South Staffordshire Water's resource management

plan, the company has a surplus in supply. The EA considers the likely demand from the site would be well within the surplus.

## **CCWater**

CCWater had concerns regarding a hypothetical situation if the site were to be redeveloped in the future for household customers. As a result, it carried out a comparison of the service standards of South Staffordshire Water and Severn Trent Water for both household and non-household customers. In doing this, it satisfied itself that neither non-household nor any future household customers will be worse off under the proposed arrangements. It is also satisfied that customers would be no worse off in terms of price, noting that South Staffordshire Water's charges are among the lowest in the country.

## **Conclusion**

Having assessed South Staffordshire Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to South Staffordshire Water's area of appointment to allow it to serve the site for water.