

Response from Energetics Design and Build to Ofwat's consultation document on 'New connections Charging – consultation' dated 27th July 2016.

Our answers to the specific questions are:-

Q1 In light of our updates and clarifications, do you agree that we still retain the key features and approach of our March proposals?

The March consultation featured:-

- a) The 'development of standardised approaches' as being desirable but this feature has been dropped in favour of new ways of charging our concern is this will greatly disrupt and disadvantage the competitive water connections market.
- b) The provision of a monitoring framework is the duty of the Regulator not as it appears to be left to water companies themselves.
- c) We would expect that the final version of the Rules would be subject of a further round of consultation on the basis of how can we comment on something we know about.
- d) We continue to be concerned that, whilst both the March and current documents call for the 'balance of charges' (funded by water companies and either developers or self-lay providers) to be maintained the Water Company's should demonstrate to Ofwat their financial model meets this Rule.
- e) Energetics believes significant improvements have taken place in the last 5 years around recoverable charges and connection charges and when the 2014 Act gave Ofwat the powers to make rules believed the rules were a vehicle for making the Regulators decisions a mandatory requirement leaving no room for individual company interpretation. The March document as well as Rules involving the status quo reviewed 5 other potential models however the lessons or models do not appear to feature in the current consultation.

Q2 Do you agree with our updates and clarifications to our proposed rules?

The clarifications are too a degree a distraction and meaningless the Rules will be Rules and will form the basis of the Water Companies charges and future disputes.

Q3 Do you agree that offsetting the infrastructure charge, rather than requisition charge, has merit? If so, when and how should this change be brought about?

Energetics fully supports the concept of using a simplified model where income offset to reduce infrastructure charge payments rather than against mains provision costs and it is essential that the changes results in a significant reduction in the administration burden associated with the present arrangements and would argue we include the Asset Payment contribution to actually reduce the Infrastructure charge and totally simplify the charging arrangements.

Energetics considers introduction in April 2017 would disrupt the market as the likelihood of the Water Companies having acceptable charging arrangements in place within eight months is low and we would suggest April 2018 and during that time period the Water Companies can prepare their new charging arrangements and have them formally approved by Ofwat as meeting all the overarching objectives within the consultation document and supports the competitive market in the provision of new connections.

Q4 Do you have comments on our proposed approach to implementing our rules?

Our major concern is Ofwat's hand off approach to Regulation and a charging arrangement where the Water Companies decide their charges against a high level aspects of the new arrangements we are left with water companies, who control the detail of what is going to be charged, free to implement without any:-

- formal consultation process; or,
- requirement to publish a draft 'charging arrangements' prior to implementation; or,
- do a qualitative impact assessment on how their proposals will impact on customer groups or types of developments; or,
- requirement to get Ofwat sign-off prior to implementation.

As already stated in question 3 – 'Energetics considers introduction in April 2017 would disrupt the market as the likelihood of the Water Companies having acceptable charging arrangements in place within eight months is low and we would suggest April 2018 and during that time period the Water Companies can prepare their new charging arrangements and have them formally approved by Ofwat as meeting all the overarching objectives within the consultation document and supports the competitive market in the provision of new connections.'

Q5 Do you agree with the approach we have taken to our draft impact assessment? Can you provide quantitative figures in terms of the potential benefits or costs? Is there anything we have missed?

The impact assessment starts with the statement that it's 'qualitative and does not present an overall quantitative assessment' and falls well short of the assessment of risks and the reassurance you wish to have before such a fundamental change to the way the market operates.

The key benefit that disputes will reduce in the long term and although site specific disputes may reduce we con there will be more disputes about the new connection charging arrangements themselves in the short term.

The assessment has only considered the cost impact on Ofwat the impact on the Market and individual SLO's appears to be absent.

In respect of 'Risks and Uncertainty' as stated in Q3 and Q4 it essential that Ofwat sets tests and thereby formally approved the new charges prior to their introduction.

Q6 Do you have any comments on the drafting of our new connections rules?

Energetics comments on the draft wording are:-

1. Why does 5.b) refer to 'Income Offsets and Asset Payments'.
2. Requisition Charges have not been defined but the phrase features in many of the Rules.
3. 'Water for construction' and its inclusion/exclusion from charges needs clarification.
4. Water Companies commonly use the terms 'gross asset payment' or 'net asset payment'. And need to be described in the charging rules.
5. Water Companies commonly use the terms 'point of connection' and from this apportionment of contestable and non-contestable works result so this important phrase needs to be described in the charging rules.
6. "Non-contestable work charges" should be included and defined as "recoverable costs payable for non-contestable work done by a water company".
7. Based on concerns highlighted in Q4 and Q4 the provision of published charges with two months' is not realistic and we again suggest April 2018 start date and during that time period the Water Companies can prepare their new charging arrangements and have them formally approved by Ofwat as meeting all the overarching objectives within the consultation document and supports the competitive market in the provision of new connections.'
8. Clause 9 suggests water companies towards seeking to charge against a range of activities that are not always recoverable and the clause should accurately reflect the list of recoverable works as listed in the Act which takes precedent over the Rules.
9. Clause 19 should say the balance between 'Developers and other customers' should say 'Developers and the Water Company' as current customer do not fund any part of the provision of new mains or services.
10. Clause 22 is too vague as some of the Water Companies administrative costs are not recoverable under the Act.
11. Clause 26 should also exclude network enhancements often requested by Water Companies and should introduce the principle of minimum design criteria.
12. We ask that clause 27 be replicated under the asset payment section as arrangements for extending works beyond what is 'necessary' to serve a site can greatly influence asset payments.
13. With regards diversions it is surely now reasonable that water companies offer betterment in the same way as they do when mains and sewers are diverted for highway works. This is because they gain from getting new assets, often to replace aged infrastructure.

Q7 Do you have comments on the draft changes to the charges scheme rules?

Energetics would prefer a total cost offsetting arrangement where new developments have a simplified charge per plot that takes account of the payments made from/to the Water Company and thereby the Infrastructure Charge would be reduced by the Asset Payment. Only by moving the charging model to a single financial transaction ideally or a cost/plot can the administrative burden be removed in the former or reduced in the later options from SLO's

Q8 Do you have any comments on the drafting of our proposed licence modification, including the wording of the illustrative example.

No comment.