

Meeting held on Thursday 24 November 2016  
 Venue: 21 Bloomsbury Street, London WC1B 3HF

## Members in attendance

<b>Board attendees</b>	
Jonson Cox	Non-Executive Director, Chairman
Catherine Waddams	Non-Executive Director
Alison Munro	Non-Executive Director
Christine Farnish	Non-Executive Director
Tim Waggott	Non-Executive Director
Mark Bayley	Non-Executive Director
Cathryn Ross	Chief Executive
John Russell	Executive Director
Richard Khaldi	Executive Director
Jenny Block	General Counsel and Board Secretary
<b>Other attendees</b>	
Keith Mason	Senior Director, Thames Tideway Tunnel
David Black	Senior Director, Water 2020
Claire Forbes	Senior Director, Corporate Communications
Alena Kozakova	Chief Economist
Tim Griffiths	Director, Water 2020
Giles Stevens	Director, Analytics
Andrew Walker	Director, Analytics
Ian McNicol	Principal, Water 2020
Adam Cooper	Director, Retail Market Opening
Helen Robinson-Gordon	Principal, Retail Market Opening
Stephen Beddoes	Principal, Retail Market Opening
Sally Irgin	Associate Director, Casework
Rebekah Eden	Director, Programmes and Project Management
Ronan Palmer	Director, Strategy and Planning
Rowaa Mahmoud	Principal, Strategy and Planning

<b>Apologies</b>	
Martin Lawrence	Non-Executive Director
Aileen Armstrong	Executive Director

## **1. Opening Items and Declarations**

- 1.1. The minutes of the Board meeting held on 27 October were agreed.
- 1.2. There were no new declarations of interest.

## **2. Chief Executive Report**

- 2.1. The Chief Executive gave an update on the internal and external environments, highlighting:
  - Retail competition: in particular noting that there had been no clarification on the possible introduction of residential retail competition in the Chancellor's Autumn Statement and we are continuing to follow up with Government in relation to issues that may be relevant in the context of business retail competition, for example how market design and regulation might be used to maximise customer engagement and how innovation could be incentivised in the absence of a form of competition;
  - Company half year results from United Utilities and Severn Trent, with Pennon's results being reported the following day;
  - Changes in ownership that had been announced and ongoing changes to industry structure as a result of business retail competition, noting the recent announcement of the proposed creation of a joint venture between Pennon and South Staffordshire and Cambridge Water in the retail space.
- 2.2. The Board discussed the important role that TPIs were likely to play in the business retail market and the importance of working closely with other regulators, including the CMA and Ofgem, in considering how best to ensure that appropriate standards were met. The Board noted that we intended to consult on a set of principles or Code of Conduct with respect to TPIs prior to market opening.
- 2.3. The Board discussed the budget information presented in the CE's report. The Executive noted that we were going to consider contingency budget in detail this

year and its allocation to programmes and to the central contingency budget respectively. The Board agreed that we would seek to carry forward any underspend in this year into the next financial year, in line with our CSR settlement.

### **3. Water 2020**

#### **Business retail price review (PR16)**

- 3.1 The Board discussed the responses received to the draft determinations on the level and the balance of default tariffs across different bands for the remaining duration of this price control period (PR16).
- 3.2 At the draft determination stage, we accepted 12 companies' proposals, gave a qualified acceptance to two companies' proposals (South West Water proposals for the Bournemouth area and Yorkshire Water) and rejected four (Anglian Water, Dŵr Cymru, Northumbrian Water, Thames Water). Following representations, the Board agreed with the Executive's recommendation to accept the rebalancing proposals of Dŵr Cymru, Northumbrian and Thames following receipt of appropriate information.
- 3.3 The Board agreed that there was insufficient evidence to justify a change to the proposed overall cost/margin allowances at PR16. In particular, the Board agreed that it was appropriate to reject Anglian Water's rebalancing proposal and the proposed increase in its overall cost to serve which, if accepted, would have exceeded our proposed 5% gross margin cap for water in the 5-50MI band materially. The Board agreed that insufficient justification had been provided for such an increase or evidence that it represented an efficient cost.
- 3.4 The Board agreed to delegate approval of the Final Determination documents to the Chief Executive subject to there being no material change from the Board's decision.

#### **Outline of approach to PR19 July draft methodology document and proposed Board engagement**

- 3.5 The Board discussed the proposals on the content of the July methodology document and on the intended engagement with Board throughout the development and agreement of consultation proposals.

- 3.6 The Board noted the central importance of this document in setting expectations for company business plans, and a clear methodology for how we are going to undertake the price control and provide clarity to customers and other sector participants. The methodology should show how we intend to deliver our strategy and regulatory framework including the development of wholesale markets (in accordance with our duties and the SPSs of the UK Government and Welsh Assembly).
- 3.7 The Board discussed the potential coverage of the PR19 methodology and whether it should cover residential retail (as we are awaiting the UK government's decision on residential retail competition) and business retail in England (in the light of business retail market opening and the potential for undertakers to exit the business retail market).
- 3.8 The Board discussed how innovation fitted into the methodology and the distinction between the detailed approach to cost assessment and how we set efficiency targets.
- 3.9 It was agreed that there needed to be more discussion about strategic communications throughout this period noting that this would be integral to the success of the review.
- 3.10 The Board discussed the various means by which Ofwat might ensure efficient and effective decision-making throughout this period, including consideration of the inter-relationship between issues, to enable an integrated view of companies, and how the key items of methodology would feed into the next price control at PR19.

## **4. Strategy and Planning**

### **Priorities for 2017/18**

- 4.1 The Board discussed the five strategic priorities that had informed our Forward Plan during this financial year and whether they remained appropriate next year. It was agreed that while fundamentally they were sound, the language should be refreshed to take account more clearly of key areas of focus in the coming year, notably on matters such as resilience and the contribution to the sector that we hoped to achieve through market developments.

- 4.2 The Board noted the key work packages in terms of programmes and projects for the coming year by reference to the strategic priorities and made a number of suggestions for rewording.
- 4.3 The draft Forward Programme and revised strategic priorities would be discussed by the Board in December prior to consultation in the New Year.

## **5. Retail Market Opening**

- 5.1. The Board discussed the progress made towards business retail market opening in particular the consultation on the WRC and MAC and other outstanding key actions required before April 2017. It was noted that shadow market operation was progressing well and the Board received updates on MOSL and company readiness. Some of the performance metrics on the operation of MOSL's systems were extremely encouraging.
- 5.2. However, the Board noted with some concern evidence that some company representatives did not appear to have sufficient awareness of the competition law compliance risks arising on market opening. In particular, there was anecdotal evidence of some retailers indicating that they could offer better deals or terms because they were associated with an appointee wholesaler.

### **Ofwat's role on customer engagement and awareness**

- 5.3. The Board received an update on Ofwat's role and responsibilities with respect to customer awareness and noted all the work that had been undertaken to date in seeking to ensure customer awareness and understanding ahead of the business retail market opening in England in April 2017. This includes the sector's agreement to fund a national campaign starting in the New Year. It was noted that it appeared that customer awareness at this stage remained relatively low and that companies had a significant responsibility to be pro-active in ensuring this improved in the coming months. It was disappointing, for example, that so few retailers' websites made clear to their eligible customers that they would have a choice.
- 5.4. Within its statutory remit, the Board noted Ofwat's role in overseeing and providing some coordination of the messages and approaches used to increase customer awareness to maximise impact, and the channels and mechanisms by which they are delivered. A significant programme of continued engagement is planned up to April 2017 and beyond through all forms of media and including face to face briefings. The national awareness raising campaign, aimed at eligible business

customers in England, is intended to provide a clear and simple message on market opening, but it would not be specifically designed to encourage customers to switch.

- 5.5. The Board welcomed the refresh of the Open Water website.
- 5.6. The Board also noted the various measures and mechanisms that would be used to monitor customer awareness and engagement after the market opened.

## **6. Enduring Retail Market Operation**

### **Regulating the business retail market post-April 2017**

- 6.1. The Board discussed the paper presented on Ofwat's enduring roles and responsibilities in the business retail market in England beyond April 2017. The Board discussed how the future regulatory model may differ in that context as a result, with a different focus on other forms of ex ante and ex post regulation; what a well-functioning retail market might look like and the balance between permitting market autonomy and targeted and effective intervention, and taking care in how we considered various market metrics; and the emerging risks and how we might approach them.
- 6.2. The Board confirmed that Ofwat will be vigilant with respect to suspected anti-competitive behaviour and intervene where necessary using the full range of its soft and hard tools. The customer experience was also extremely important, notably impacts in terms of service quality and the provision of clear and objective information.
- 6.3. The Board noted the significant read across from other markets, notably energy and financial services, and the lessons we might learn from them, while having regard to the different characteristics of these markets and their different stages of evolution. The experience of market opening in Scotland was also highly relevant.
- 6.4. The Board also discussed how we might encourage customer awareness and engagement through more modern digital channels and tools, for example, through web-based chats, mechanisms for digital feedback and blogs. Such tools may also enable quicker feedback to market participants and Ofwat on how the market is functioning to help us better prioritise and target any interventions.

## **Market monitoring framework**

- 6.5. The Board discussed the Executive's proposals on monitoring the business retail market in England from April 2017 and noted the stakeholder engagement that had already taken place on this issue which had informed the proposals.
- 6.6. The Board agreed to delegate the sign off of the consultation document to the Chief Executive.

## **7. Update from Committee Chair**

### **Remuneration and People Committee**

- 7.1. The Chair reported on the October meeting at which the Committee discussed progress on agreeing the pay remit and spent a considerable time discussing the initiatives in place to encourage and promote well-being within Ofwat.

## **8. Any Other Business**

- 8.1. There was no other business and the Chairman closed the meeting.

**Jenny Block**

**Board Secretary**

**24 November 2016**