

6 November 2017

Trust in water

Proposal to grant a variation of appointment to SSE Water Limited to enable it to provide water and sewerage services to a site called Barking Riverside Stages 2-4

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1. About this document

This notice is a consultation on our proposal to grant a variation of appointment to SSE Water Limited (“**SSE**”) as a water and sewerage company and make consequential variations to the appointments of Northumbrian Water Limited (“**Northumbrian Water**”) as a water company and Thames Water Utilities Limited (“**Thames Water**”) as a sewerage company.

This notice is a consultation on this proposal (under section 8 (3) of the Water Industry Act 1991 (“**WIA91**”). The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to the consultation, Ofwat will decide whether or not to grant these variations of appointment.

2. The Site

SSE has applied to be the water and sewerage company for a new development of 9,536 households called Barking Riverside Stages 2 – 4 in East London (**“the Site”**). SSE is already the water and sewerage services company for parts of the site (**“Existing Site”**). **It was granted a variation to supply the first stage of the Existing Site** on 27 June 2011 and was granted a further **variation** to serve an additional part of the Existing Site on 15 June 2015, which was later re-issued on 20 December 2016 due to problems being raised concerning the border of the Existing Site.

The Site is within the water service area of Northumbrian Water and the sewerage service area of Thames Water. SSE’s application for the Site consists of 9,536 household customers and no non-household customers. SSE has the consent of Barking Riverside Limited (**“the Site Developer”**), to become the water and sewerage services provider. SSE proposes to provide the 9,536 customers with potable water via a bulk supply contract with Northumbrian Water. SSE also proposes to provide foul sewerage services via a bulk discharge agreement with Thames Water. For surface water drainage, the Site will contain a surface water drainage system that will retain all surface water to be dispersed on the site, ensuring that no surface water will drain to Thames Water’s sewerage system.

3. The applicant

In October 2007, SSE obtained its first appointment as a water and sewerage undertaker for a housing development at the Old Sarum site in Wessex Water's area. Since then Ofwat has agreed to vary SSE's area of appointment so that it serves a further 27¹ sites for water and/or sewerage services including the Existing Site. SSE's ultimate controller is SSE plc.

In addition to this application, we are considering applications by SSE to provide services on a further five sites.

¹ [Register of previously granted NAVs](#)

4. The proposal

Ofwat proposes to:

- grant a variation of appointment of SSE as a water and sewerage company;
- vary the appointment of Northumbrian Water as a water company by excluding the Site from its water supply area; and
- vary the appointment of Thames Water as a sewerage company by excluding the Site from its sewerage supply area.

By means of the above, SSE will become the water and sewerage services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation², provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

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

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

We clarified these two policy principles in February 2011 when we published our New appointments and variations – [policy](#) and [process](#) documents. In November 2012, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers. These include not only the customers of the existing provider but also customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

² The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

6. The application

SSE has applied to be the water and sewerage company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

6.1 Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment is made, none of the premises in the proposed area of appointment are served by the existing appointee.

SSE has provided letters from both Thames Water and Northumbrian Water confirming that neither company has evidence to indicate that they are currently serving the Site. In addition to the letters from the two incumbents, SSE provided maps of the locations of the assets owned by the two incumbents in the area to demonstrate that there are no existing water or sewerage assets serving the Site. Finally, the Site Developer confirmed that it was not aware of any existing water or sewerage company assets on the development site.

Given the information provided by the application and the incumbent companies, we are satisfied that the Site may be considered unserved.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (**“Business Customers”**) in England and Wales are able to choose their supplier³.

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in

³ The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 MI where the relevant area is wholly or mainly in Wales) can effectively switch suppliers of water and/or sewerage from 1 April 2017.

whose geographical area the relevant site sits. We will continue to protect customers on a site by regulating the new appointee's prices and service levels.

6.3 Price

SSE proposes to charge customers on the Site charges that are equivalent to the charges of Northumbrian Water and Thames Water. It does not propose to offer customers a discount beyond those charges. These charges are the same as the charges to customers at the Existing Site.

6.4 Levels of service

Every appointee is required under its conditions of appointment to publish Codes of Practice on debt and leakage and a Customer Code for its household customers. We have assessed SSE's proposed Codes of Practice and Customer Code, and our view is that these are of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the points covered by the above Codes of Practice and the Customer Code than they would be if Northumbrian Water were to be the customers' water supplier and Thames Water was to be their sewerage supplier.

6.5 Site owner choice

SSE has the consent of the Site Developer to become the water and sewerage provider.

6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application⁴.

⁴ The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA.

6.7 Incumbents' existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this new appointment on the prices that Thames Water's and Northumbrian 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. 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.

We have assessed the potential magnitude of this impact by comparing how much Thames Water and Northumbrian Water might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with SSE.

We recently updated the approach we take to estimating the impact of granting a new appointment or variation on the annual bills of the incumbent's customers. We updated the approach to reflect the current price setting regime and the latest financial data we hold. Using this approach, we estimate a potential £0.07 increase on the water bills of existing Northumbrian Water customers, and a potential £0.04 increase on the sewerage bills of existing Thames Water customers if we grant this variation to SSE.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore we consider that granting this variation to SSE would have a very small financial impact on customers' bills and could have potential benefits for customers.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

We have considered the revenues and costs of the entire Site should the relevant variations be granted. We are satisfied that the Site demonstrates financial viability.

SSE is supported by a parent company guarantee (“**PCG**”) from Scottish and Southern Energy .This PCG will ensure that for so long as SSE holds an appointment, its parent must make available to SSE all of the resources it needs in order to comply with its duties as an appointee. This meets our requirements, in that it covers one year’s annual operating costs required to supply the number of connections the business is projected to have in two years’ time.

On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are currently satisfied that applicant would be able to finance its functions if the variation is granted.

7. Conclusion and next steps

In assessing SSE's application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and SSE would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variations on the existing customers of Thames Water and Northumbrian Water.

We are currently minded to grant this variation of SSE's appointment under the unserved criterion. We are consulting on our proposal to do so.

Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing (which includes by email) to Jonathan Eddleston at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at jonathan.eddleston@ofwat.gsi.gov.uk

Representations must be received by Ofwat no later than 17.00 hours on 4 December 2017. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site maps

[Link to site map for the water service boundary.](#)

[Link to site map for the sewerage service boundary.](#)