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Trust in water

Variation to enable Independent Water Networks Limited to make a small amendment to the area of a site called Brooklands, Milton Keynes, to which it currently provides water services

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1. About this document

Variation to enable Independent Water Networks Limited to make a small amendment to the area of a site called Brooklands, Milton Keynes, to which it currently provides water services

On 7 December 2017, Ofwat began a consultation on a proposal to vary Anglian Water's appointment to become the water provider for two areas comprising eight domestic units and five commercial units (“**the Properties**”) on a development in Independent Water Networks Limited’s water supply area called Brooklands in Milton Keynes (“**the site**”).

The consultation ended on 11 January 2018. During the consultation period, we received representations from one organisation, which we considered in making our decision. On 27 February, we granted Anglian Water a variation to its existing appointment to enable it to supply water services to the site.

This notice gives our reasons for making this variation.

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2. 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, Independent Water Networks applied to be replaced by Anglian Water and Anglian Water to become the appointed water and sewerage 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 (**“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:

1. Customers, or future customers, should be no worse off than if they had been supplied by the existing appointee; and
2. 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.

3. The application

Independent Water Networks has applied to remove their responsibility for water for part of the site as they did not meet the unserved criterion, set out in section 7(4)(a) of the Water Industry Act 1991 (“**WIA**”).

3.1 Consented status of the Site

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant’s application.

Anglian Water has agreed that the Properties should return to it as they did not meet the unserved criterion.

3.2 Unique aspects

This variation is unique in that it involves a current appointee, Independent Water Networks, returning sites it took over in error to an incumbent water supplier, Anglian Water. Due to this and the very small number of properties affected, it is not necessary to carry out the usual cost, service, and finance checks, as the beneficiary of this transfer, Anglian Water, is a regulated incumbent supplier, whose functions are already regulated by Ofwat.

4. Responses received to the consultation

We received one response to our consultation from the Consumer Council for Water. We considered these responses before making the decision to vary Anglian Water's appointment. The points raised in the response are set out below.

4.1 Consumer Council for Water

CCWater responded on 12 December 2017 to ask for more background information on the application. We forwarded CCWater's concerns to IWN and ANH, and IWN responded on 22 December with further explanations, which it had agreed upon with ANH. CCWater confirmed that it was satisfied with the responses on 9 January 2018 and that it has no objections to the application.

5. Conclusion

Having assessed Independent Water Networks' application, and having taken account of the responses we received to our consultation, we decided to grant a variation to;

- grant a variation of appointment to Independent Water Networks as a water company; and
- vary the appointment of Anglian Water as a water company by removing the Properties from Independent Water Networks' supply area.

By means of the above, Anglian Water became the water supplier for the Properties. This appointment became effective on 23 February 2018.