



Paul Oxley
Review of the Retail Exit Code
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Dear Paul

Consultation on price protections beyond March 2020 in the Retail Exit Code

SSE has a subsidiary company – SSE Water Limited, which holds an appointment for a range of different areas under the ‘new appointments and variations’ or NAV framework. Our interest in the Retail Exit Code (REC) consultation stems from recent discussions with Ofwat on the process for NAV companies setting retail charges for non-household customers in their areas. Further to this and to Ofwat’s subsequent consultation on proposed modifications to Condition B of new appointees’ conditions of appointment, we have a comment on a suggested modification for the REC that could be considered when it is modified to address the price protection points discussed in the current consultation.

Our suggested modification is described below following some background information on the process followed by NAV companies for setting retail charges.

Background

The retail prices of most NAV companies are regulated by means of a ‘relative price control’ set out in Condition B of their licence. This requires charges to be set at a level no greater than the relevant charges of the appropriate incumbent water companies. Since the retail business market opened in England in 2017, many incumbents have exited this market, as discussed in the consultation. That left no clear comparator for business retail prices for NAV companies to use in setting their own charges in areas where the relevant incumbents had exited.

Ofwat has been aware of this issue and commenced discussions with NAV companies during 2017 on amending the relevant comparator in areas affected by retail exit to the default tariffs published by the acquiring licensees, which set charges according to the requirements of the REC, as discussed in the consultation. This is covered in the Condition B consultation mentioned above, as is a further consideration on the process requirements around charge setting. For appointed companies, Ofwat’s Charges Scheme Rules specify dates by which retail charges for any financial year have to be published in advance of the start of that financial year: for incumbent companies, the required publication date is 1 February; and for NAV companies, the required date is 22 February. The delay for NAV companies allows them to

have sight of the comparator charges set by incumbents before they themselves must set and publish their own charges.

As discussed in the Condition B consultation, there is no requirement for acquiring licensees (or any successors) to publish their schemes for terms and conditions under the REC by any prescribed date. This clearly means that, in order to meet their obligations under the Charges Scheme Rules, NAV companies setting non-household charges in areas where the relevant incumbent has exited from that retail market may have to use prior year charging information from acquiring licensees if these licensees have not published charges for the coming financial year by the time the NAV charges have to be finalised for publication.

Ofwat's proposed amendments to Condition B in NAV licences take this possibility into account but it is SSE Water's view that the REC should be amended to require acquiring licensees to set the tariff prices in the scheme of terms and conditions for succeeding financial years to the same timescale as non-exited incumbents.

Suggested modification to Retail Exit Code

Following on from the discussion above, SSE Water proposes that, when the REC is being amended to address price protection issues post March 2020, it should also be amended to require the acquiring licensee to publish default charges for the following financial year consistently with the requirements for incumbents in the Charges Scheme Rules i.e. by the first working day in February.

This would promote consistency not only in charge setting processes between incumbents and acquiring licensees but also in the charges NAV companies set for areas where the relevant incumbent has exited when compared with areas where they have not. In the latter, the incumbent publishes charges to a set timescale under Ofwat's Charges Scheme rules such that NAV charges can use an up-to-date comparator when setting their own charges for the next financial year. Our proposed change to the REC would allow it to play a part in ensuring that customers of NAV companies experience consistent price protection by requiring acquiring licensees to set charges to the same timescale as un-exited incumbent water companies. We suggest that it is a proportionate extension of the requirements on acquiring licensees in mirroring another process requirement affecting the incumbent water companies from whom they are acquiring the non-household customers that, as Ofwat's current consultation on the REC notes, still need some protection in terms of price setting.

Please let me know if you have any queries on this proposal.

Yours sincerely

Aileen Boyd
Regulation Manager