

August 2018

Trust in water

**Consultation on changes to the Wholesale Charging
Rules in accordance with 66E and 117I of the Water
Industry Act 1991**

Introduction

In April 2017, we introduced a competitive water retail market for business customers, which allows approximately 1.2 million business, charity and public sector customers of English water companies to switch their provider of water and wastewater retail services. This means that developers or other customers are able to request new connection services to non-household premises through a retailer as well through the incumbent wholesaler. The wholesaler then has a duty to provide these services to the retailer. We regulate the charges that a wholesaler can make to a retailer through our Wholesale Charging Rules.

We published our Wholesale Charging Rules on 24 November 2016 under sections 66E and 117I of the Water Industry Act 1991 ('the Act'). As set out in [Information Notice 18/05](#), in March 2018 we made changes to the Wholesale Charging Rules to ensure that developers and other customers that request new connection services through a water supply and/or sewerage licensee benefit from the protections offered by our [Charging Rules for New Connection Services \(English Undertakers\)](#). These changes were made as urgent revisions in accordance with sections 66EC and 117L of the Act, and, as such, they only have effect for 6 months from the day after the revised rules were issued.

This document sets out our proposal to make these temporary changes permanent, and should be read with the draft Wholesale Charging Rules on which we are consulting. Consistent with the changes set out in Information Notice 18/05, we consider that the proposals set out in this document will ensure that retailers, and developers or other customers that request new connections services through a retailer, benefit from the protections offered by our Charging Rules for New Connection Services (English Undertakers).

This document is the statutory consultation on the revision of our Wholesale Charging Rules.

We welcome responses to this consultation, by close of business on 14 September 2018.

Legal framework

We are required under sections 66E and 117I of the Act to issue Wholesale Charging Rules, and are permitted under these sections, to revise rules issued and issue revised rules. Sections 66EB and 117K of the Act sets out the procedure under which we are able to make and amend the Wholesale Charging Rules.

In accordance with sections 66EB and 117K of the Act, we are able to stipulate the consultation period within which persons should respond. We must not issue the revised Wholesale Charging Rules until 28 days after the consultation finishes (beginning with the day after the end of the consultation period).

Proposed code changes

New Connection Services

On 1 April 2018, our Charging Rules for New Connection Services (English Undertakers) came into effect. These rules were developed in consultation with the sector and having regard to the charging guidance issued to us by the Department for Environment, Food and Rural Affairs (Defra). These charging rules aim to ensure that charges for new connections services enable and encourage efficiency, are fair and give certainty to suppliers and buyers.

The amendments that we are proposing to make to our Wholesale Charging Rules are almost identical to those set out in Information Notice 18/05 and are designed to ensure that retailers, and developers or other customers that request new connection services through a retailer, benefit from the protections offered by our Charging Rules for New Connection Services (English Undertakers).

It was not our intention that different rules should provide for the calculation of charges for the same services depending on the route through which they are requested. As a result we are using our powers under sections 66E and 117I of the Act to change our Wholesale Charging Rules to include the relevant provisions of the Charging Rules for New Connection Services (English Undertakers).

In developing these revised Wholesale Charging Rules, we have had regard to the Charging guidance to Ofwat issued by Defra and the Consultation on Charging Guidance to Ofwat (the economic regulator of the water sector) issued by the Welsh Government. We have also looked to encourage the development of markets in England and in the part of the market that is contestable in Wales by ensuring fairness and affordability, environmental protection, stability and predictability, and transparency and customer-focused service. Our approach will also help retailers to

drive efficiency in the wholesale market as they compare (and question) the wholesale charges that have been proposed by wholesalers.

Correcting an error in the ‘Mogden Formula’

It has come to our attention that the Wholesale Charging Rules that were published on 24 November 2016 contain some typographic errors in the definition of the ‘Mogden Formula’ set out at paragraph 5. Specifically, the definition of the term ‘Ss’ from the formula has been omitted in the document and the definitions of the terms ‘R’ and ‘V’ have the units ‘[p/m3]’ rather than ‘[p/m³]’.

When issuing the revised Wholesale Charging Rules we will correct this error, and have set out the changes in the proposed Wholesale Charging Rules attached to this consultation. However, as Mogden formula is a well-established formula in the wastewater sector that was not originally defined for the Wholesale Charging Rules, we do not consider these changes to be part of this consultation and we are not seeking the views of stakeholders on these changes.

Responding to this consultation and next steps

Our proposed revised [Wholesale Charging Rules](#) have been published alongside this document. We have highlighted the changes that we propose to make relative to the 24 November 2016 version of the Wholesale Charging Rules in red. As explained in this document, to a large extent these changes are the same as the March 2018 version of the rules, which incorporates urgent changes.

We are now seeking stakeholder views on the proposed changes to our Wholesale Charging Rules in relation to New Connection Services.

We will consider responses to this consultation and publish a revised set of Wholesale Charging Rules at the earliest opportunity.

We welcome your responses to this consultation by close of business on 14 September 2018. Please email responses to charging@ofwat.gsi.gov.uk or post them to:

Charging
Ofwat
Centre City Tower
7 Hill Street

Birmingham
B5 4 UA

We will publish responses to this consultation on our website at www.ofwat.gov.uk, unless you indicate that you would like your response to remain unpublished. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with access to information legislation – primarily the Freedom of Information Act 2000 (FoIA), the General Data Protection Regulation 2016, the Data Protection Act 2018, and the Environmental Information Regulations 2004. For further information on how we process personal data please see our [Privacy Policy](#).

If you would like the information that you provide to be treated as confidential, please be aware that, under the FoIA, there is a statutory ‘Code of Practice’ which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Ofwat.

We will also be consulting in the Autumn on a proposal to make permanent the urgent changes that we made to our Charges Scheme Rules and our Charging Rules for New Connection Services (English Undertakers), as detailed in our [Information Notice 18/14](#).

More information

[Our proposed changes to the Wholesale Charging Rules](#)

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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