

Consultation under section 13 of the Water Industry Act 1991 on proposed modification to simplify various conditions of all undertakers' licences

Severn Trent Water and Hafren Dyfrdwy Response

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WONDERFUL ON TAP



Summary of response

We welcome the opportunity to respond to the above consultation.

The Licence Conditions are important for protecting customers and holding companies to account. We support the simplifying of the Licence to provide greater clarity and transparency to companies, customers, Ofwat and other stakeholders with regard to the way in which the industry is regulated, as well as providing consistency to our licencing arrangements.

The overall changes to the Licence including the use of an introductory paragraph providing a short summary of the reason for the licence condition, the use of paragraph numbering to help with navigation, the structure of the licence to include all definitions in Condition A, and the clarity of language and terminology, will all contribute significantly to Ofwat's stated objectives of the simplification proposals. The streamlining of the Licence together with any removal of duplication, in particular for codes G, H and I which relate to customer information, and the removal of redundant conditions, will help customers and stakeholders understand the obligations with which their water company has to comply.

We are generally supportive of and agree in principle with the proposals to simplify the Licence. Specific comments in respect to each of the Licence Condition modifications are contained in the attached annex.

Both the Boards of Severn Trent Water (STW) and Hafren Dyfrdwy (HD) will discuss and ratify the changes at the next appropriate meetings and our response is subject to this ratification.

Should you require any further information please do not hesitate to contact me.

Bronagh Kennedy
General Counsel and Company Secretary

Comments on specific Licence Condition modifications

Condition D (Charges scheme)

We accept in principle the proposed modifications as outlined in the consultation.

We await the charges rules for HD which we understand will be implemented once the new charging regime for developer services is in place in Wales.

Condition E (Undue preference/discrimination in charges)

We accept in principle the proposed modifications as outlined in the consultation.

Condition F (Regulatory Accounting Statements)

It is STW's and HD's policy to operate in full compliance with the Regulatory Accounting Guidelines (RAGs). To ensure that we materially comply with the guidance we undertake external third line assurance on our regulatory accounting procedures as part of our year-end reporting process. We therefore accept in principle the majority of proposed modifications as outlined in the consultation.

However it is our understanding that the new Condition F6.2 imposes a duty on water companies to comply with all requirements set out in Ofwat's RAGs. The inclusion within new Condition F6 of the obligation to comply with the RAGs will alter the balance of risk for water companies by altering the status of the RAGs from being purely guidance to being a formal part of the regulatory framework within which we operate. The extent of the obligations increases significantly due to RAG5 being considerably longer than the existing Condition F6.

We note that Ofwat has committed to a consultation on complementary revisions to the RAGs and we welcome the opportunity to respond and seek reassurance from Ofwat that, as the RAGs are to become part of the Licence, the same level of consultation is applied to amend the RAGs as would be required for any Licence amendment.

Conditions G (Core customer information), H (Procedure on leakage) and existing I (Code of practice and procedure on leakage)

We accept in principle the proposed modifications as outlined in the consultation.

New Condition I (Ring-Fencing)

STW and HD agreed new ring-fencing conditions with Ofwat. These were incorporated in Condition P of both STW's and HD's Instruments of Appointment. In accordance with the statement on page 76 of the consultation paper "Some companies already have a more modernised and consolidated condition on ring fencing, and those companies will not need this Condition I." We would therefore assume Condition I not to be applicable to either STW or HD and would be grateful for confirmation of this.

Condition J (Levels of service information and service targets)

We accept in principle the proposed modifications as outlined in the consultation.

Condition M (Provision of information)

We accept in principle the proposed modifications as outlined in the consultation.

Condition N (Licence fees)

We accept in principle the proposed modifications as outlined in the consultation.

Condition O (Replacement appointment)

It is a duty of the Secretary of State to, “ensure that for every area of England and Wales there is at all times” a water undertaker and a sewerage undertaker (section 7 Water Industry Act 1991). The existing Condition O provides that an appointment may be terminated where the Secretary of State has given at least 25 years’ notice and that period of notice has expired. The proposed Condition O will provide that an appointment may be terminated where the Secretary of State has given at least 25 years’ notice and the replacement appointment is to come into effect on the expiry of that notice.

We believe the current Condition O is adequate to meet the requirements of section 7 of the Water Industry Act 1991 and that no revision is required. We accept, in principle, the existing wording could pose a potential risk of a gap between the exiting appointee and the new appointee and Ofwat would wish to consult on this. However, we believe the proposed wording is a substantive change in risk that could be detrimental to our interest by limiting our ability to secure terms for transfer of the undertaking to an incoming appointee and therefore is beyond the scope of this consultation as outlined in Table 2 of Ofwat’s consultation document.

We understand that Ofwat would wish to change the current provision to reduce the potential risk of a gap and we are willing to give consideration to this substantive change within an appropriate consultation.

Condition Q (Interruptions in supply because of drought)

We accept in principle the proposed modifications as outlined in the consultation.

Conditions R1 (Open Water Programme) and R2 (Retail Market Opening)

We accept in principle the proposed modifications as outlined in the consultation.