

24 October 2018

Trust in water

Variation of Independent Water Networks Limited's appointment to include Ings Lane

1. About this document

Variation of Independent Water Networks Limited's appointment to include Ings Lane

On 13 June 2018, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("IWN") appointment to become the water services provider for a development in Yorkshire Water Services Limited's ("YKY") water supply area called Ings Lane in Brough ("the Site").

The consultation ended on 10 July 2018. During the consultation period, we received a response from one organisation, which we considered in making our decision. On 22 October 2018, we granted IWN 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 (“**NAV**”) mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of water 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, IWN applied to replace YKY to become the appointed water 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 (the “**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 company.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers (such as household and business 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. We consider these potential disbenefits in more detail below.

3. The application

IWN applied to be the water services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). IWN will serve the Site by way of a bulk supply agreement with YKY.

3.1 Unserved status of the Site

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

YKY has provided a letter confirming that, in its view, the Site is unserved. YKY also confirms that, in its view, the Site is not currently served by a public water main and there are no recorded water mains within the Site.

We are therefore satisfied that the application meets the unserved criteria.

3.2 Financial viability of the proposal

We will only grant an appointment or variation if we are satisfied that the proposal poses a low risk of being financially non-viable. We can assess the risk of financial viability in a number of ways. In this case, we have considered this application alongside applications for three other sites: Europa Way, Cockering Road and Limebrook Park (together with the Site, these are referred to as the “**four Sites**”).

Based on the information available to us, we concluded the four Sites together demonstrate sufficient financial viability, and IWN has satisfied us that it can finance its functions and that it is able to properly carry them out.

3.3 Assessment of ‘no worse off’

IWN proposes to match the charges to customers on the Site of YKY.

With regard to service levels, we have reviewed IWN's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of YKY. Based on this review, we are satisfied that customers will be offered an appropriate level of service by IWN and that overall customers will be ‘no worse off’ being served by IWN instead of by YKY.

3.4 Effect of variation on YKY's customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that YKY'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 on customers of YKY. 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. Broadly, we have assessed the potential magnitude of this impact by comparing how much YKY 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 IWN.

In this case, we have calculated that if we grant the Site to IWN, there may be a potential impact on the bills of YKY's existing customers of £0.007.

This impact does not take into account the potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites.

3.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Horncaste Group, said that it wanted IWN to be the water company for the Site.

4. Responses received to the consultation

We received one response to our consultation; from the Consumer Council for Water (“**CCWater**”). We considered this response before making the decision to vary IWN's appointment. The points raised in the response are set out below.

CCWater

4.1 In response to our consultation, CCWater stated that it supports the application for the Site by IWN. It also agrees with Ofwat's conclusion that no customers on the Site will be left worse off. CCWater notes that IWN matches, and in many cases exceeds, the services standards offered by YKY. CCWater has highlighted that IWN will not be able to offer customers the same social tariff that YKY currently does. CCWater notes that IWN still offer a WaterSure tariff for qualifying customers. CCWater indicated that it was disappointed that IWN offers no direct financial benefit to customers on the Site.

Our response

4.2 One of Ofwat's key NAV policies is that customers should be 'no worse off' if a NAV is granted. In other words, an applicant must ensure its new customers are made no worse off in terms of price and service than if they had been supplied by the previous incumbent. This requirement has been met by IWN in its proposal to improve the levels of service and match the pricing set by YKY. We do not require applicants to provide a direct financial benefit.

5. Conclusion

Having assessed IWN's application, and having taken account of the response we received to our consultation, we decided to grant a variation to IWN's area of appointment to allow it to serve the Site for water services. This appointment became effective on 23 October 2018.

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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