

16 October 2018

Trust in water

# Wholesale Charging Rules: decision document

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## About this document

The Water Industry Act 1991 (**the Act**) (as amended by the Water Act 2014) allows the Water Services Regulation Authority (Ofwat) to set rules about the charges that an incumbent water and/or wastewater appointee can impose on a water supply and/or sewerage licensee (**Retailer**). This also allows Ofwat to make amendments to these rules following a formal public consultation.

From 30 August 2018 to 14 September 2018, we undertook a statutory consultation on revising our Wholesale Charging Rules. In addition, we highlighted some errors in the existing Wholesale Charging Rules that we intended to amend at the same time, although these changes did not form part of this consultation.

This document sets out our final position on these revisions to our Wholesale Charging Rules. Our final position is consistent with our consultation.

The changes in this document affects water companies whose areas are **wholly or mainly in England**<sup>1</sup> only.

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<sup>1</sup> Meaning water and sewerage undertakers whose areas are wholly or mainly in England.

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## 1 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.

On 30 August 2018, we published a consultation on a proposal to make these changes permanent.

## 2 Contents of our consultation

### 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 proposed to make to our Wholesale Charging Rules were almost identical to those set out in Information Notice 18/05 and were 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 proposed to use our powers under sections 66E and 117I of the Act to revise 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 would 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 came 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/m<sup>3</sup>]’.

As a result, the revised Wholesale Charging Rules correct this error. As Mogden formula is a well-established formula in the wastewater sector that was not originally defined by the Wholesale Charging Rules, we did not consider these changes to be part of this consultation and we did not seek the views of stakeholders on these parts of the changes.

### **3 Responses to our consultation**

12 stakeholders responded to our consultation. The list of respondents is set out in Annex 1. As we are publishing all of the substantive non-confidential responses alongside this document, we do not attempt to summarise them in detail below. Instead, we note that all 12 responses were either directly supporting of the proposed amendments or provided no comments on the proposal. Where consultation responses were brief emails confirming either support of the proposal or that the respondent had no comments, these have not been published in the Annex. We did not receive any responses that were against the proposed change or that suggested changes to the proposal.

The only material comments in the responses that we received was from a stakeholder that suggested Ofwat should revisit the market codes (the Wholesale Retail Code) that relate to developer services that are provided through a retailer. This part of the Wholesale Retail Code are currently suspended until April 2020.

We agree that this part of the Wholesale Retail Code should be considered in light of this change to the Wholesale Charging Rules. The re-introduction of Part A of the Operational Terms of the Wholesale-Retail Code is part of Market Operator Services Limited's (MOSL) forward work plan. We will work closely with MOSL to ensure any changes to the codes reflect the changes to the Wholesale Charging rules.

## 4 Our Decision

As we have received no objections from stakeholders to our proposed revision of the Wholesale Charging Rules and we have not received a direction from the Department of Environment, Food and Rural Affairs (**Defra**) not to make this revision, the revised Wholesale Charging Rules are issued on 16 October 2018.

The revised Wholesale Charging Rules have [been published alongside this document](#) with the changes to the rules highlighted for clarity.

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](#).



## **Annex 1 - List of respondents**

### **Water companies**

1. Affinity Water
2. Bristol Water
3. Northumbrian Water
4. Portsmouth Water
5. South East Water
6. South Staffordshire and Cambridge Water
7. South West Water
8. Thames Water
9. United Utilities
10. Welsh Water
11. Yorkshire Water
12. The Consumer Council for Water