

Consultation on changes to the Charges Scheme Rules, Wholesale Charging Rules and the Charging Rules for New Connection Services (English Undertakers) in accordance with 143(6A), 143B, 66E and 117I, and 51CD, 105ZF and 144ZA of the Water Industry Act 1991

Introduction

On 1 April 2018, our Charging Rules for New Connection Services (English Undertakers) (the “New Connection Rules”) 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). They aim to ensure that charges for new connections services enable and encourage efficiency, are fair and give certainty to suppliers and buyers. We originally published the New Connection Rules in December 2016 under sections 51CD, 105ZF and 144ZA of the Water Industry Act 1991 (‘the Act’). These were issued in addition to the Charges Scheme which were initially issued in November 2015, and subsequently re-issued in December 2016 and June 2018 under sections 143(6A) and 143B of the Act. .

As set out in [Information Notice 18/14](#), in June 2018 we made changes to the Charges Scheme Rules and the New Connection Rules (together, for the purposes of this consultation, the “Charging Rules”) to ensure that, regardless of the way that a new water or wastewater connection was made, water and wastewater companies were able to levy an infrastructure charge to recover network reinforcement costs they reasonably incur as a result of the provision or adoption of new water mains or public sewers and the connection of new premises. These changes were made as urgent revisions in accordance with section 143D of the Act (for the Charges Scheme Rules) and sections 51CF, 105ZH and 144ZC of the Act (for the New Connection Rules), 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 Charging Rules on which we are consulting. Consistent with the changes set out in [Information Notice 18/14](#), we consider that the proposals set out in this document will ensure that English water and wastewater companies¹ are able to recover the reasonable costs of providing these services regardless of the methods by which the customer procures them.

In addition to this, we propose to revise the definition of ‘Small Company’ and ‘Small Companies’ in our Wholesale Charging Rules and our New Connection Rules to remove the reference to the Cholderton and District Water Company Limited. We also propose to remove the reference to Cholderton and District Water Company Limited from the Annex of the Charges Scheme Rules.

¹ By “English water and wastewater companies” we mean water undertakers and sewerage undertakers whose areas are wholly or mainly in England.

This document is the statutory consultation on the revision of our Charges Scheme Rules, Wholesale Charging Rules and the Charging Rules for New Connection Services (English Undertakers).

We welcome responses to this consultation, by close of business on 20 November 2018.

Legal framework

We are required under sections 143(6A), 143B, 66E and 117I and 51CD, 105ZF and 144ZA of the Act to issue the Charging Rules and the Wholesale Charging Rules, and are permitted under these sections, to revise rules issued and issue revised rules. Sections 143C, 66EB and 117K and 51CE, 105ZG and 144ZB of the Act set out the procedure under which we are able to make and amend the rules.

In accordance with sections 143C, 66EB and 117K and 51CE, 105ZG and 144ZB of the Act, we are able to stipulate the consultation period within which persons may make representations about the proposed rules. We must not issue the revised Rules until 28 days after the consultation finishes (beginning with the day after the end of the consultation period).

Proposed rules changes

Infrastructure Charges

The aim of the changes is to make clear what network reinforcement costs English water and wastewater companies can recover through infrastructure charges. In particular, the changes are intended to make clear that infrastructure charges can recover network reinforcement costs incurred regardless of the method by which water mains, public sewers or new connections are procured. We do not anticipate that the changes to our Charging Rules will require English water and wastewater companies to change the infrastructure charges that they are currently charging their customers.

When premises are connected to the public water or wastewater system for the first time, the relevant water or wastewater company is able to levy an infrastructure charge for each new water or wastewater connection. This charge is additional to the costs of any physical connection work and allows English water and wastewater companies to recover network reinforcement costs they reasonably incur as a result of the provision or adoption of new water mains or public sewers and the connection

of new premises. This charge can be levied regardless of the method by which the new connection was procured or made.

Our policy on charging for network reinforcements, as set out in our July 2016 consultation document² on new connection charging and confirmed in our subsequent decision document³, is to allow English water and wastewater companies to set infrastructure charges that cover all off-site network reinforcement works needed to support new development in their areas. This was intended to be the case regardless of the method by which developers or other customers procure water mains, public sewers or new connections.

However, we came to the view that the Charging Rules needed to be changed to make clear that infrastructure charges can recover network reinforcement costs incurred where new water mains, public sewers or connections are provided under an agreement (including an agreement with a retailer⁴ in the business retail market) as well as where they are provided under a specific duty in the Act. This reflects the fact that English water and wastewater companies may not always provide new connection services under specific sections of the Act. We understand that this is the basis on which English water and wastewater companies have currently calculated their infrastructure charges and that is why we do not expect the changes to our Charging Rules to require any changes to current infrastructure charges.

The only types of agreement that we exclude for these purposes are agreements with other water and wastewater companies (**bulk supply agreements** and **bulk discharge agreements**). We would not expect the costs of any network reinforcement needed because of a bulk supply or bulk discharge agreement to be paid for by the customers of the water or wastewater company that was providing a supply of water or wastewater services.

To ensure that the Charging Rules are consistent with our broader policy and each other, we have amended paragraph 30 of our Charges Scheme Rules and the definition of “Network Reinforcement” in paragraph 5 of the New Connection Rules. This is because the Charges Scheme Rules use the “Network Reinforcement” definition set out in the New Connection Rules for consistency.

² <https://www.ofwat.gov.uk/wp-content/uploads/2016/03/New-connections-charging--consultation.pdf>

³ <https://www.ofwat.gov.uk/consultation/new-connections-charging-consultation/#Outcome>

⁴ By “retailer” we mean a water supply and/or sewerage licensee.

The amendments that we are proposing to make to our Charges Scheme Rules and our New Connection Rules are almost identical to those set out in Information Notice 18/14.

Definition of a Small Company

We propose to revise the definition of ‘Small Company’ and ‘Small Companies’ in our Wholesale Charging Rules and New Connection Rules. These terms are currently defined to include references to Cholderton and District Water Company Limited. However, on 1 May 2018, the licence of Cholderton and District Water Company Limited was terminated for the reasons set out in our [reasons document](#). As a result, we propose to remove the references to Cholderton and District Water Company Limited from these definitions in both of these sets of charging rules.

We also propose to remove the reference to Cholderton and District Water Company Limited from Annex A2 of the Charges Scheme Rules for the same reason.

Correcting minor errors in the Charging Scheme rules and New Connection Rules

It has come to our attention that the Charges Scheme Rules that were published on in December 2016 contain some minor typographic errors in the definition of the Mogden formula and in Rule 32. The New Connection Rules also have some minor formatting errors in the annex.

When issuing the revised Charges Scheme Rules and the New Connection Rules we will correct these errors, and have set out the changes in the proposed Charges Scheme Rules and New Connection Rules attached to this consultation. However, we do not consider these changes to be part of this consultation and we are not seeking the views of stakeholders on these changes.

Consolidating the Charging Rules for New Connection Services (English Undertakers)

In July 2017 we made a minor change to our Charging Rules for New Connection Services (English Undertakers).⁵ The change provides an exception from requirements to provide upfront fixed charges for requisitions. However, we did not

⁵ <https://www.ofwat.gov.uk/consultation/new-connection-charges-for-the-future-england/>

issue a revised version of the Charging Rules for New Connection Services (English Undertakers) document at the time. We are therefore including these rules (rules 47 and 48) in the consolidated version of this document but, as these rules are already in force, this is not a change on which we are consulting.

Responding to this consultation and next steps

Our proposed revised Charges Scheme Rules, Wholesale Charging Rules and Charging Rules for New Connection Services (English Undertakers) have been published alongside this document. We have highlighted the changes that we propose to make in red relative to the 15 December 2016, 17 October 2018 and the 2 November 2017 versions of these charging rules respectively. As explained in this document, to a large extent these changes are the same as the June 2018 version of the Charges Scheme Rules and Charging Rules for New Connection Services (English Undertakers), which incorporated the urgent changes and the change to the Wholesale Charging Rules is a minor amendment to remove the reference to Cholderton and District Water Company Limited.

We are now seeking stakeholder views on the proposed changes to our Charges Scheme Rules, Wholesale Charging Rules and our Charging Rules for New Connection Services (English Undertakers). We will consider responses to this consultation and publish a revised set of Charges Scheme Rules, Wholesale Charging Rules and revised Charging Rules for New Connection Services (English Undertakers) at the earliest opportunity.

We welcome your responses to this consultation by close of business on 20 November 2018. Please email responses to charging@ofwat.gsi.gov.uk or post them to:

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More information

[Our proposed changes to the Charges Scheme Rules](#)

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

[Our proposed changes to the Charging Rules for New Connection Services \(English Undertakers\)](#)

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