
ALLOCATION NOTICE

NOTICE OF DETERMINATION UNDER SECTION 7.4 OF THE INTERIM SUPPLY CODE

5 APRIL 2019

Except as otherwise provided in this Allocation Notice, words and expressions used in this Allocation Notice have the same meaning as they have in the Interim Supply Code (the 'Code').

1. THE CODE

- 1.1. The Authority has issued the Code pursuant to sections 63AF and 110O of the 1991 Act. The Code sets out the arrangements in the event that a Licensee is no longer able to provide Water Retail Services and Sewerage Retail Services to Affected Customers. These arrangements are set out in more detail below.
- 1.2. Details of the Interim Supply Process are set out at Annex 1.

2. BACKGROUND

- 2.1 Aquaflow Utilities Limited (the 'Previous Licensee') ceased to provide Water Retail Services and Sewerage Retail Services to Relevant Premises on 28 March 2019 when the revocation of its Water Supply Licence and Sewerage Licence took effect (the 'Revocation'). For the purpose of this Interim Supply event the 'Relevant Premises' are those to which the Interim Duty Supply Points relate. For the purpose of this Interim Supply event, the Interim Duty Supply Points are those that were Registered to the Previous Licensee at the time of the Revocation (the 'Relevant Supply Points').
- 2.2 Following the publication of the Revocation notice and prior to the issue of the Notice of Relevant Cessation of Supply (the 'RCS Notice') the Authority asked the Market Operator to inform Licensees that an Interim Supply event was likely to occur, and confirm how they could Elect to become an Eligible Licensee.
- 2.3 The Authority subsequently issued an RCS Notice at 9am on 29 March 2019 to each Eligible Licensee, each relevant undertaker in whose Area there was a Relevant Supply Point, and the Market Operator. The RCS Notice confirmed that the Previous Licensee ceased to provide Water Retail Services and Sewerage Retail Services to the Relevant Premises as at the Date of

Relevant Cessation of Supply, the 28 March 2019. It confirmed that the Suspension Deadline was 1pm on 29 March 2019 and set out the Areas in which the Relevant Cessation of Supply had occurred and the number of Relevant Supply Points. The Authority received no requests to Suspend Election.

- 2.4 The Authority assessed the List of Opted In Retailers by Area against the Areas in which the Relevant Supply Points are located. It also considered the Statements of Interim Supply Capacity, the number of Relevant Supply Points, the number of Affected Customers and, as part of this, the number of multi-Area Affected Customers. Having considered the factors above, the Authority concluded that it was appropriate to seek Interim Supply Offers with the intention that that the Allocation of all the Relevant Supply Points should be to a single Eligible Licensee.
- 2.5 Based on the List of Opted In Retailers and the Statements of Interim Supply Capacity, the Authority was able to request Interim Supply Offers from five Eligible Licensees. The Interim Supply Offer invitation was sent to Eligible Licensees on 1 April 2019. The deadline for the submission of Interim Supply Offers was 12pm on 3 April 2019. Five Eligible Licensees submitted Interim Supply Offers. Ofwat sought clarifications from all of the Eligible Licensees on their Interim Supply Offers.
- 2.6 The Interim Duty Supply Offer invitation set out the characteristics we were looking for in the successful Interim Supply Offer, namely:
- (a) one that manages the increased number of customers with no impact on existing customers. Mitigating circumstances would be considered by Ofwat if all the Interim Supply Offers impacted customers;
 - (b) where practicable, one that allows customers' credit balances to be honoured and/or carried over;
 - (c) one that confirms the Eligible Licensees' ability to provide the required Eligible Credit Support (as defined in the Wholesale-Retail Code); and
 - (d) where bespoke services such as trade effluent as provided by the Previous Licensee, one that is able to take on these services.
- 2.7 The Interim Supply Offer invitation included specific questions to aid our assessment of the Interim Supply Offers against the above characteristics. We also considered the Schemes and latest version of the Statement of Interim Supply Capacity as part of this assessment, and comparison. We summarise the conclusions of our assessment of the offers below.

3. ASSESSMENT¹

Provision of services to existing customers and Affected Customers

All Eligible Licensees, including Clear Business, clearly demonstrated that they would be able to manage the increase to their customer base with no impact on existing customers.

Management of change of supplier process

Two of the Eligible Licensees gave extremely limited answers to this question. Three of the Eligible Licensees submitted detailed proposals as to how they would manage the change of supplier process. Two of the Eligible Licensees went further by demonstrating consideration of the impact this event will have had on the Affected Customers and how they would be treated differently given the circumstances.

Clear Business Water provided a strong response including reference to the experience they have had in large-scale customer base acquisitions and that Affected Customers would, initially, be managed by a specialist team who would engage proactively with all Affected Customers shortly after Allocation.

Honouring Affected Customers' credit balances

None of the Eligible Licensees offered to honour the credit balance, although only two of the Eligible Licensees, including Clear Business Water, provided reasoned rationale as to why this was the case. Nevertheless, as none of the offers included this commitment, we did not differentiate between the Interim Supply Offers on this basis.

Eligible Licensees were able to finance additional costs to the business, especially in relation to Wholesale Charges and Eligible Credit Support / Alternative Eligible Credit Support

All Eligible Licensees, including Clear Business Water, were able to provide reasoned confirmation that they were able to finance the additional costs to the business that the Allocation of Affected Customers would entail.

Eligible Licensees were able to confirm that they can offer Trade Effluent Services in the required Areas

All Eligible Licensees, including Clear Business Water, confirmed that they would be able to offer Trade Effluent Services in the required Areas.

¹ Due to the commercially sensitive nature of Interim Supply Offers the Authority will not be publishing these in full or providing extensive detail as to their content.

Scheme of terms and conditions

Ofwat reviewed each of the Schemes submitted. Four of the Schemes submitted were adequate for the purposes of Interim Supply. However, given that Affected Customers will be moving onto a new contract that they have not had the opportunity to review or negotiate, the three Schemes that provided more detail, whilst still in a clear and comprehensible manner, were considered preferable.

Clear Business Water's Scheme was thorough and included terms that deal with billing, customer obligations, metering and disconnection.

Price Terms

We reviewed the information provided in the Interim Supply Offers form, and the Schemes to confirm that the price terms that Affected Customers would be obliged to comply with were reasonable.

Clear Business Water's Scheme confirms that Affected Customers will be charged for the services they use using the default tariff, unless this is agreed otherwise with the Affected Customer. The default tariff is defined in the Scheme by reference to the charges scheme for primary services published by the incumbent retailer.

Statement of Interim Supply Capacity

Eligible Licensees were required to submit the latest version of their Statement of Interim Supply Capacity. All of the Eligible Licensees provided this statement, and this confirmed that they were able to provide Water Retail Service and Sewerage Retail Services for all the Affected Customers in all of the relevant Areas.

Clear Business Water demonstrated that it operates in all the Areas and Service Categories in relation to the Relevant Supply Points. It also confirmed that it can provide services to all of the Relevant Supply Points and that it is able to effectively manage the additional number of customers.

Overall conclusion

Taking our assessment against all of the criteria in the round, Clear Business Water presented the strongest Interim Supply Offer. It was particularly strong in two areas, management of the change of supplier process and the Scheme, in comparison to the other Eligible Licensees. The next best Eligible Licensee's Scheme was less strong, and other Eligible Licensees did not provide the same level of assurance on the management of the change process. Clear Business Water's submission in relation to the remaining

assessment areas was equivalent to the other Eligible Licensees'. For this reason, Clear Business Water has been allocated the Relevant Supply Points.

4. ALLOCATION DECISION

- 4.1. The Authority sought Interim Supply Offers from Eligible Licensees which had capacity to provide Interim Supply to all the Relevant Premises.
- 4.2. The Authority has made directions pursuant to Section 63AC(3) and Section 110L(3) of the 1991 Act that it is to be the duty of Clear Business Water Limited to continue the supply of water and the provision of sewerage services to the Relevant Premises.
- 4.3. The Interim Duty Supply Points Allocated to Clear Business Water Limited are the Relevant Supply Points.
- 4.4. The Date of Relevant Cessation of Supply is 28 March 2019.

5. REGISTRATION OF THE RELEVANT SUPPLY POINTS

- 5.1 The Market Operator shall Register the Allocated Relevant Supply Points to Clear Business Water with effect from the Date of Relevant Cessation of Supply.
- 5.2 The Relevant Supply Points shall:
 - 5.2.1 include Supply Points Registered to the Previous Licensee at the Date of Relevant Cessation of Supply including those in the process of being Deregistered or Disconnected; and
 - 5.2.2 include New Supply Points in the process of being Registered to the Previous Licensee at the Date of Relevant Cessation of Supply; but
 - 5.2.3 not include Supply Points in the process of being Registered to an Incoming Retailer at the Date of Relevant Cessation of Supply.

**Signed on behalf of the Authority by
Emma Kelso, Senior Director Customers and Casework**



On behalf of the Water Services Regulation Authority

ANNEX 1

1. THE INTERIM SUPPLY PROCESS

1.1. Procedure for the Election of a Eligible Licensee and the procedure for the Suspension of Election

- 1.1.1. A Licensee that Elects to be an Eligible Licensee must do so in accordance with Section 4.1 of the Code.
- 1.1.2. This includes the submission of a notification to the Market Operator of the Area or Areas in relation to which the Licensee is Electing to be an Eligible Licensee and, in respect of each such Area, whether it is to be an Eligible Licensee in relation to Water Retail Services or Sewerage Retail Services or both.
- 1.1.3. Further, within a reasonable time of Electing to be an Eligible Licensee it shall also confirm to the Authority in writing the requirements in relation to the Scheme and provide a copy of its Statement of Interim Supply Capacity.
- 1.1.4. The Market Operator retains a List of Opted In Retailers by Area.
- 1.1.5. Following the issue of a Notice of Relevant Cessation of Supply (an 'RCS Notice') an Eligible Licensee may choose to Suspend its Election until such time as all the Interim Duty Supply Points identified in a single Notice of Relevant Cessation of Supply have been Allocated. Section 4.4 of the Code sets out the procedure for this.

1.2. Circumstances in which the Authority's power of direction may be exercised

- 1.2.1. Section 5.1 of the Code confirms that the Authority shall only use its power under Section 63AC and/or Section 110L of the 1991 Act where:
 - (a) there has been a Relevant Cessation of Supply in relation to the Eligible Premises;
 - (b) that Previous Licensee is not a Self-Supply Licensee; and
 - (c) an Interim Duty Supply Point relating to the Eligible Premises has been Allocated to the Eligible Licensee in accordance with the Code.

1.3. Circumstances in which the Authority will issue a direction

- 1.3.1. The Authority may issue a direction to an Eligible Licensee providing that it is to be the duty of that licensee to continue the supply of water and/or the provision of sewerage services where the Previous Licensee ceases to provide the relevant services and the owner or occupier of premises has not informed the relevant undertaker that arrangements have been made for the continuation of the services or he intends that the provision of services should

cease. Where premises are in a retail exit area the Authority must give a direction.

1.4. How the Authority determines the Date of Relevant Cessation of Supply

1.4.1. Section 5.2 of the Code sets out the procedure following a Relevant Cessation of Supply. This includes confirmation that the Date of Relevant Cessation of Supply shall be:

- (a) the date on which the relevant Previous Licensee's Licence was (or will be) revoked, as set out in the relevant revocation notice issue by the Authority; or
- (b) the date on which a Wholesale Contract between the relevant Previous Licensee and a relevant undertaker was terminated.

1.5. The process for issuing the RCS Notice and any accompanying information

1.5.1. In accordance with Section 6.1 of the Code where the Authority intends to issue a direction to an Eligible Licensee it must issue an RCS Notice to each Eligible Licensee, each relevant undertaker in whose Area there is an Interim Duty Supply Point, and the Market Operator. The RCS Notice includes the identity of the Previous Licensee, the Date of Relevant Cessation of Supply and the Suspension Deadline for the specified Relevant Cessation of Supply.

1.5.2. Further information that should be provided to recipients of the RCS Notice includes the Areas in which the Relevant Cessation of Supply has occurred and the number of Interim Duty Supply Points of each Service Category in each Area affected. The Authority may provide additional information, including the number of Interim Duty Supply Points in each Area which receive Trade Effluent Service.

1.6. Circumstances in which the Authority may decide to Allocate Interim Duty Supply Points

1.6.1. Section 7.1 of the Code sets out four options for the Allocation of Interim Duty Supply Points. These include via Interim Supply Offers or the Interim Supplier Allocation Process under the Wholesale Retail Code.

1.6.2. The Interim Supply Offers process set out at Section 7.2 of the Code enables the Authority to request Interim Supply Offers from Eligible Licensees. The purpose of seeking Interim Supply Offers in respect of a relevant Area or combination of relevant Areas (as applicable) shall be to Allocate all of the Interim Duty Supply Points within such an Area or combination of Areas to a single Eligible Licensee. Having invited Eligible Licensees to make an Interim Supply Offer, the Authority is required to consider all of the Interim Supply Offers received, Allocate all of the Interim Duty Supply Points within each relevant Area or each combination of Areas (as applicable) to a single Eligible

Licensee on the terms set out in the Interim Supply Offer submitted, and issue a direction in accordance with the 1991 Act.

- 1.6.3. The Interim Supplier Allocation process set out at Section 7.3 of the Code requires Interim Duty Supply Points to be Allocated by the Market Operator in accordance with the Wholesale Retail Code.