

November 2019

Trust in water

Variation of Icosa Water Service Limited's appointment to include Riverside College, Runcorn

1. About this document

Variation of Icosa Water Services Limited's appointment to include Riverside College

On 30 September 2019, Ofwat began a [consultation](#) on a proposal to vary Icosa Water Services Limited ("**Icosa Water**")'s appointment to become the sewerage services provider for a development in United Utilities Water Limited's ("**United Utilities**") sewerage services area called Riverside College in Runcorn, Cheshire ("**the Site**").

The consultation ended on 28 October 2019. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 14 November 2019, we granted Icosa Water a variation to its existing appointment to enable it to supply sewerage services to the Site.

This notice gives our reasons for making this variation.

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2. Introduction

The new appointment and variation mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of water and/or sewerage 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, Icosa Water applied to replace United Utilities to become the appointed sewerage 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 and/or sewerage 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

Icosa Water applied to be the sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). Icosa Water will serve the Site by means of a bulk discharge agreement with United Utilities.

3.1 Unserved status of the Site

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

The Site is a brownfield site and was previously a college of further education and associated car park. Icosa Water has provided correspondence from United Utilities confirming that, in its view, the Site would be unserved once demolition of the existing buildings on the Site had been completed. The developer has confirmed that the buildings on the Site have been demolished.

Given the information provided by the application and the incumbent company, we consider that the Site is unserved.

3.2 Financial viability of the proposal

We will only make an appointment if we are satisfied that the proposal poses a low risk of being financially non-viable. We assess the risk of financial viability on a site-by-site basis and also consider the financial position of the company as a whole.

Based on the information available to us, we concluded the Site demonstrates sufficient financial viability, and Icosa Water 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’

Icosa Water proposes to charge customers on the Site no more than they would have been charged had United Utilities remained as provider of sewerage services, i.e. it will not offer a discount.

With regard to service levels, we have reviewed Icosa Water's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of United Utilities. Based on this review, we are satisfied

that customers will be offered an appropriate level of service by Icosa Water and that overall customers will be 'no worse off' being served by Icosa Water instead of by United Utilities.

3.4 Effect of appointment on United Utilities' customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that United Utilities' 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 United Utilities. 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 United Utilities 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 Icosa Water.

In this case, we have calculated that if we grant the Site to Icosa, there is unlikely to be any potential impact on the bills of United Utilities' existing customers.

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 – Countryside Properties (UK) Limited – said that it wanted Icosa Water to be the sewerage company for the Site.

4. Responses received to the consultation

We received two responses to our consultation, from the Environment Agency and from the Consumer Council for Water (“**CCWater**”). We considered these responses before making the decision to vary Icosa Water’s appointment. The points raised in the response are set out below.

4.1 Environment Agency

The Environment Agency noted that in the NAV application, United Utilities indicated that its combined network has sufficient capacity to accommodate the foul flows from the Site. The Environment Agency recognised that the foul flow expected from the development of 144 properties is relatively small, compared with the total at the United Utilities waste water treatment works at Runcorn that would receive these flows. However, it requested from Icosa Water detailed confirmation that capacity exists. Such confirmation should include the potential impact on the operation of combined sewer overflows, in addition to the flood risk from the point of connection to the United Utilities network. The Environment Agency also noted that combined sewer overflows in this area, discharge to either the Manchester Ship Canal or the Mersey Estuary, both of which are sensitive receptors. It also noted the Mersey Estuary at this location is part of the Mersey Estuary Special Protection Area.

The Environment Agency additionally noted that it had highlighted potential issues with land contamination at the Site in its responses to the outline and full planning applications. It stated that these comments should be taken into account when providing the Site with surface and foul drainage.

Our response

We shared the Environment Agency’s comments with Icosa Water, who provided additional information from United Utilities as to how the Site will drain. It was noted that the load from the Site was expected to be consistent with that of the previous use of the Site and that no detriment was anticipated to combined sewer overflows.

We provided a copy of Icosa Water’s response to the Environment Agency, which confirmed on 11 November 2019 that they were content that Icosa Water’s response addressed their concerns.

4.2 CCWater

Overall, CCWater agrees with our assessment that customers will be no worse off if served by Icosa Water rather than United Utilities.

CCWater recognised that Icosa Water was proposing to meet or exceed most of the service standards offered by United Utilities but expressed disappointment that, by setting charges at the same rate as United Utilities, Icosa Water was not offering any direct financial benefit to customers.

CCWater accepted that, given its relative size, it may be appropriate for Icosa Water to tailor some of the services that it provides. CCWater set out its expectation that Icosa Water would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff. CCWater expects Icosa Water to keep its services under review in this regard.

CCWater noted that our calculations suggested that granting the variation would not lead to any increase in the sewerage bills for United Utilities' customers but noted that we had not identified any significant benefits to United Utilities' existing customers from the proposals.

Our response

One of our key policies is that customers should be no worse off if an application is granted. An applicant must therefore ensure that its new customers are made no worse off in terms of price and service quality than if they had been served by the incumbent. We consider that this requirement has been met by Icosa Water through its proposal to improve the levels of service and match the pricing set by United Utilities. We do not require applicants to offer a better service and price than the incumbent.

5. Conclusion

Having assessed Icosa Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Icosa Water's area of appointment to allow it to serve the Site for sewerage services. This appointment became effective on 15 November 2019.

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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