

17 February 2020

Variation of Icosa Water Services Limited's appointment to include Berry Acres in Paignton, Devon

1. About this document

Variation of Independent Water Network Limited's appointment to include Berry Acres, Paignton, Devon

On 14 January 2020, Ofwat began a [consultation on a proposal](#) to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the sewerage services provider for a development in South West Water Limited's ("**South West Water**") sewerage services area called Berry Acres in Paignton, Devon ("**the Site**").

The consultation ended on 11 February 2020. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 13 February, we granted Icosa Water a variation to its existing appointment to enable it to provide 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 South West Water 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 provider 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 way of a bulk discharge agreement with South West Water.

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.

South West Water has provided a letter, dated 9 September 2019, confirming that, in its view, the Site is unserved. The Site is a greenfield site and the letter from South West Water confirmed that it does not have any record of assets within the curtilage of the Site and considers the Site as unserved. We have also been provided with an area map which shows no existing structures within the curtilage of the Site.

Having reviewed the facts of this Site, and taking into account the letter from South West Water, we consider the Site to be 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 match the charges to customers on the Site of South West Water, that is, 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 South West Water. 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 South West Water.

3.4 Effect of appointment on South West Water's customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the charges that South West Water'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 South West Water. 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 South West Water might have expected to receive in revenue from serving the Site directly, were it to serve the Site, with the revenues it might expect from the proposed arrangement with Icosa Water.

In this case, we have calculated that if we grant the Site to Icosa Water, there may be a potential increase in the bills of South West Water's existing customers of £0.01.

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, BDW Trading Limited said that it wanted Icosa Water to be the sewerage provider for the Site.

4. Responses received to the consultation

We received two responses to our consultation, from South West Water and 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 responses are set out below.

4.1 South West Water

South West Water told us that it supports the development of markets where customers could benefit, or in the least suffer no detriment, and therefore it has no objections to our proposal to grant this variation.

4.2 CCWater

CCWater stated it expects to see NAV appointments to provide customers with prices, levels of service and service guarantees that match, or ideally, better those of the incumbent company or companies, particularly for developments that include domestic housing as household customers do not currently have the facility to choose or switch supplier, unlike business customers.

CCWater stated that as such, it is disappointed that there is no direct financial benefit to customers from having Icosa Water as their provider of sewerage services, rather than South West Water since it proposes to charge customers for water services on the same basis as South West Water. However, it noted that Icosa Water generally matches or exceeds the service standards provided by South West Water. Overall CCWater agrees with our assessment that customers will be no worse off if the variation were granted.

CCWater stated that given Icosa Water's relatively small size and customer base, it may be appropriate for it to tailor some of the services that it provides. CCWater noted that until Icosa Water can provide a formal social tariff, it would expect Icosa Water to offer appropriate, flexible support to any individual customers in financial difficulty who would otherwise benefit from a social tariff and that this should not be at the expense of its other customers since Icosa Water is not currently in a position to research the views of its customers on cross-subsidy.

CCWater notes that Ofwat has calculated that the cost to existing customers to be around £0.01 per annual bill for South West Water customers once the Site is fully built. Whilst CCWater appreciates this is a negligible effect, it considers that Ofwat has provided no evidence of significant benefit to South West Water's existing customers. CCWater stated it questions the value of the NAV regime if it cannot deliver benefits to customers.

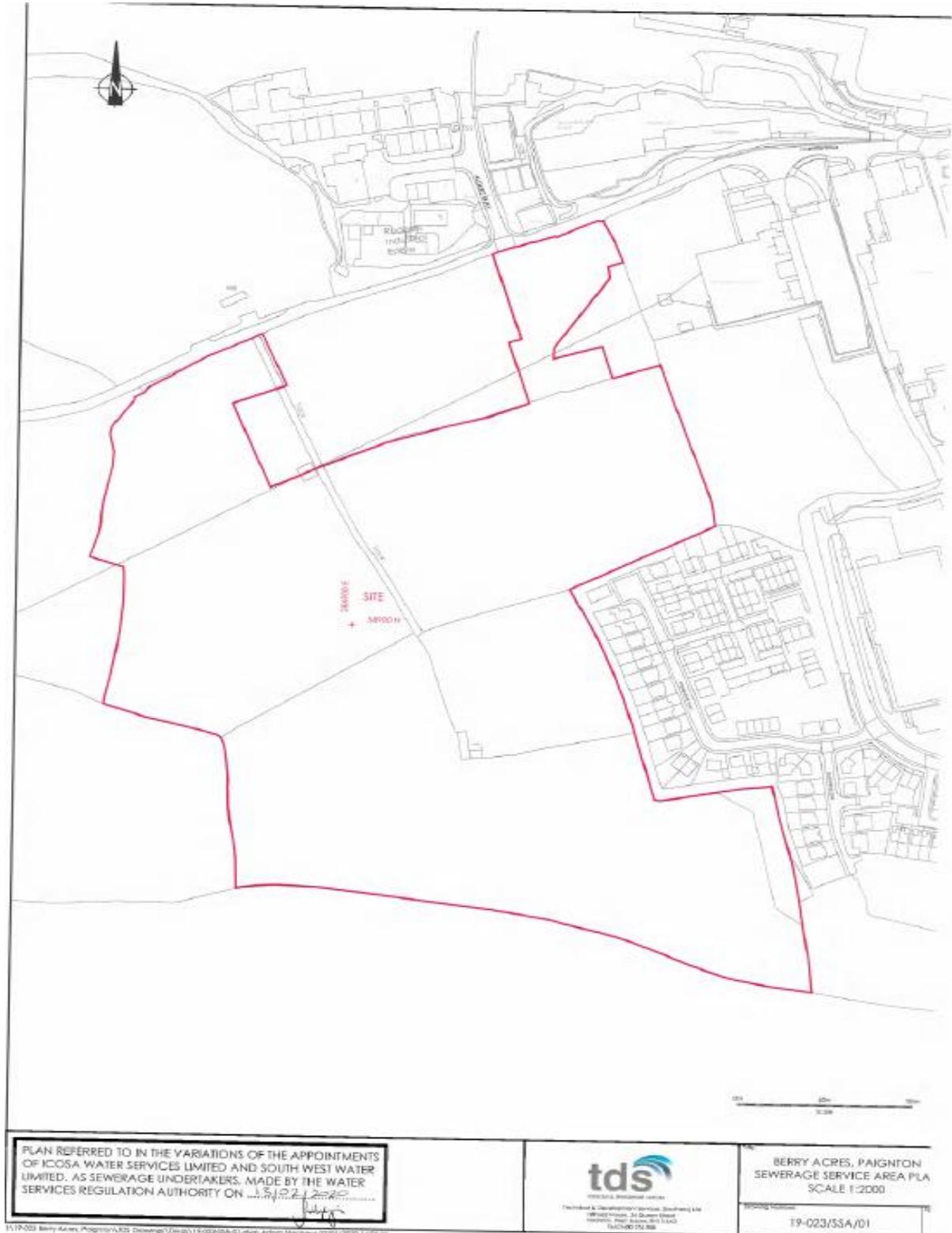
4.1 Our response

One of the key policy principles Ofwat considers when assessing NAV applications is that current customers, or future customers, should overall be no worse off (in terms of the price and service they receive) than if they had been supplied by the existing appointee. This requirement has been met by Icosa Water in its proposal to improve the levels of service and match the pricing set by South West Water. Our assessment does not require applicants to better the service and price of the existing appointee.

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 14 February 2020.

Appendix 1: Site Map



Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
We regulate the water sector in England and Wales.

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