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By e-mail - incodem@ofwat.gov.uk

8th November 2019

Dear 

Re: Incumbent water companies and the development of effective markets (not confidential)

Thank you for the opportunity to respond to your May 2019 letter to incumbent water companies on the importance of their support for the development of effective markets.

BUUK infrastructure, the parent company of IWNL, compete to provide utility infrastructure for house builders. In electricity gas and fibre there is full competition, with choice on both who installs and who owns the assets. In water / wastewater competition has been largely restricted to installation through SLPs. Almost all installed networks have been adopted by the incumbents. Competition can transform the sector, bringing fresh investment, resource and innovation along with lower costs and better service. This is essential to help deliver the increase in new build homes and also the move to system build / modular homes, with much shorter delivery times.

The NAV market has existed for more than 13 years. Over this period, IWNL have experienced much poor customer service from incumbent water companies, slow response to clear market barriers and a continued reliance by incumbents on Ofwat to provide leadership in improving the overall market framework by introducing new, customer centric, approaches. Not all incumbents have addressed the issues raised, even when Ofwat have provided clear guidance on the required next steps.

IWNL therefore welcomes your latest intervention asking companies to focus on how they have facilitated effective markets. Since the publication of your letter in May, IWNL have written to all incumbents to ensure that there is complete clarity of the issues that need to be addressed. Given IWNL discussions with the industry have been ongoing for 13 years and nothing new has been raised in our response to the Ofwat Effective NAV Markets response, we believe that this is more than sufficient time for companies to have made final commitments by the 31st October 2019 on the changes they were prepared to make.

Now we have passed the end of October 2019 (the deadline for incumbent companies to respond to Ofwat) we have produced a snap-shot of our assessment of progress. Overall, IWNL are encouraged by much wider recognition by incumbents of identified issues but the range of responses is still mixed and a few companies remain difficult to work with, particularly in either getting them to engage with IWNL as a customer or to make firm commitments in addressing the issues we have identified.

In Appendix 1 IWNL have provided a summary of our engagement over the last 6 months with incumbents. In the following section we have ranked incumbent performance in facilitating the NAV market into four categories. Appendix 2 includes a rating of each company by market barrier issue and in Appendix 3 we provide a summary of the status of the market barrier issues as at the end of October across the industry.

Good facilitation of the NAV market – Green (Three Incumbents) - [REDACTED]

[REDACTED] have been the most responsive to the issues IWNL have raised. Although IWNL have had to have further discussions with two companies ([REDACTED]) on their commitments IWNL are confident that they have all understood our concerns and have committed to reasonable solutions with definitive timescales.

Improving facilitation of the NAV market – Amber. (Six Incumbents) - [REDACTED]

[REDACTED] ([REDACTED]) have made some progress in starting to facilitate markets but concerns remain with regards to the delivery of the commitments they have made or with their current levels of performance. IWNL will continue to monitor their performance and delivery of their commitments and hope that this will continue to improve.

Poor facilitation of the NAV market – Red (Three Incumbents) - [REDACTED]

[REDACTED] have been difficult to work with during this process and IWNL find their behaviour falling short of the effective facilitation of markets. IWNL recognise that there has been significant engagement with both [REDACTED] over the last six months through specific and business as usual engagement sessions. However, that engagement has not led to firm commitments.

- In the case of [REDACTED] IWNL are also particularly concerned with their historic and underlying performance in responding to our connection/discharge requests and the finalisation of Bulk Supply agreements.
- In the case of [REDACTED], IWNL have had extensive discussions with them but they are yet to propose suitable solutions.
- IWNL have found [REDACTED] difficult to engage with as a customer. They have not formally responded to our initial letter to their Chief Executive. IWNL are also unsure whether they, at an organisation level, recognise their responsibility to facilitate the development of markets.

Unable to Assess NAV market facilitation performance (Three Incumbents).

[REDACTED] have not been assessed as IWNL have had insufficient experience or evidence of their improvements to their NAV processes and underlying performance. The [REDACTED] is different and also adds some additional complexity to market operation.

Water Industry Co-ordination

There are also a number of issues that are preventing the effective development of markets that require co-ordination across the water industry. Until recently IWNL

have been frustrated by the lack of progress on these issues. The NAV behavioural working group that was set up under Water UK has now made some progress in 2019. This is in large part due to the [REDACTED]. However, IWNL are concerned that this working group often moves at the speed of the slowest incumbent and not all incumbents have been fully engaged with the work that has been carried out. Specifically, IWNL are disappointed that the work to develop a common industry bulk supply (and discharge) agreement has missed its deadline for implementation at the end of October. IWNL understand that incumbent water companies want to now carry out further consultation before its introduction at the start of April 2020. This wasn't part of the original terms of reference and raises further concerns that incumbent water companies are not committed to the changes that have been agreed so far.

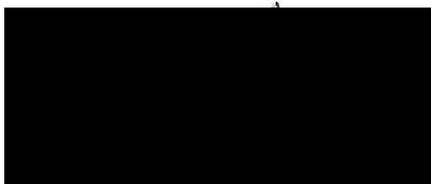
Further work is still needed to overcome the barriers to develop common industry standards and procedures. IWNL accepts that NAVs need to play their part in this process and have set up a NAV forum to provide a common view where possible and subject to competition law. IWNL would welcome further guidance from Ofwat on how better co-ordination could be achieved without requiring continuous Ofwat management and involvement. IWNL would also welcome further guidance on how incumbent water companies could work together to reduce the administrative burden on NAVs.

Conclusions and next Steps

In conclusion IWNL recognise some overall improvement to incumbent's behaviour in the support of the effective development of markets. However, this process is far from complete and we plan to continue to measure their behaviour, performance and delivery of commitments. IWNL are concerned that once regulatory focus is removed the industry may revert back to poor behaviour and or not deliver on the further commitments they have made. To help avoid this IWNL believe it would be beneficial if incumbents were asked to report at least annually on the measures they have taken to support the development of effective markets and stakeholders are also given the opportunity to comment on their experience.

IWNL look forward to continuing to engage with the industry and Ofwat to further improve the effectiveness of markets. We would be please to clarify any questions you may have.

Your Sincerely

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Keith Hutton - Director of Regulation, BUUK infrastructure & Independent Water Networks Limited

CC - Clive Linsdell – CEO BUUK infrastructure

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Appendix 1 –Summary of incumbent water companies’ engagement on the effective development of markets



Company	Letter Issued	Response Received	Follow Up Letter Issued	Follow Up Response Received	Follow Up Meeting Request	Meeting Held	Clarifications Received
[Redacted]	19-Sep	21-Oct					
	26-Jul	13-Aug			06-Sep and 22-Sep		
	26-Jul	06-Sep			10-Sep	04-Oct	11-Oct
	26-Jul	Not received - 21-Aug email response.	Chased 27th Sep, expected end of Oct	Email reponse on the 27-Sep. Expected end of October.	21-Aug		
	26-Jul	07-Aug			26-Sep	27-Oct	08-Oct
	26-Jul	20-Aug			26-Sep	04-Oct	
	26-Jul	08-Aug			09-Sep	19-Sep	
	26-Jul	12-Aug	10-Sep	25-Oct			
	26-Jul	06-Aug					
	26-Jul	Not received - 20-Aug email response.	Chased 27th Sep.	No Response.			
	26-Jul	12-Aug	10-Sep	27-Sep	17-Sep	23-Sep	27-Sep
	26-Jul	06-Aug			06-Aug	24-Sep	
	26-Jul	05-Aug	10-Sep	11-Oct			
	26-Jul	05-Sep			11-Oct	18-Oct	

Key:

- Poor and or insufficient response - fail reasonable test
- Unclear response, will clarify before end of October, further bilateral engagement planned
- Clear response with positive commitment given
- No formal response received
- Not applicable

Appendix 2 – IWNL assessment of incumbent water companies support to the effective development of the NAV market.



Company	Acceptable NAV Tariff	Organisation Behaviour issues	Accurate meter readings	Removal of financial holding accounts	Provision of additional holding	Application of additional services correctly	Standard Bulk supply agreement	Acceptance of industry NAV service levels	POC/POD Self-Service available	Application of Brown field site consent	Incumbents adoption of pumping stations	POC/POD standards complied with	No charging for boundary metering
	Red	Red	Black	Red	Yellow	Yellow	Yellow	Yellow	Black	Black	Red	Green	
	Red	Yellow	Black	Red	Yellow	Yellow	Yellow	Yellow	Black	Yellow	Yellow	Green	
	Red	Green	Black	Green	Green	Yellow	Green	Yellow	Black	Black	Green	Green	
	Red	Yellow	Black	Grey	Grey	Grey	Grey	Grey	Black	Grey	Grey	Grey	
	Red	Yellow	Black	Yellow	Yellow	Yellow	Yellow	Yellow	Black	Yellow	Green	Green	
	Red	Yellow	Black	Red	Yellow	Yellow	Yellow	Yellow	Black	Yellow	Green	Green	
	Red	Green	Black	Green	Green	Yellow	Green	Yellow	Black	Green	Yellow	Green	
	Red	Yellow	Black	Red	Yellow	Yellow	Yellow	Yellow	Black	Red	Yellow	Green	
	Red	Yellow	Black	Grey	Grey	Grey	Grey	Grey	Black	Grey	Grey	Grey	
	Red	Red	Red	Red	Yellow	Red	Yellow	Red	Yellow	Yellow	Yellow	Green	
	Red	Green	Black	Green	Green	Yellow	Green	Yellow	Black	Yellow	Green	Green	
	Red	Yellow	Black	Yellow	Yellow	Yellow	Yellow	Yellow	Black	Yellow	Yellow	Green	
	Red	Yellow	Black	Green	Yellow	Yellow	Green	Yellow	Black	Yellow	Yellow	Green	

- Key:
- Poor and or insufficient response - fail reasonable test
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 - Not applicable

Appendix 3 – summary of the status of the issues across the industry as at 31st October 2019.

Although getting solutions to the issues IWNL are experiencing is very important we do not believe that we should be driving this engagement as we have had to with a number of companies. During the period May to October 2019 IWNL have had to write 23 formal letters and had 16 follow up meetings and attended 4 industry working groups. This level of engagement has been a significant drain on resources for IWNL and we expect companies to be much more targeted and supportive in their engagement approach going forward. Furthermore, the level of complexity caused by so many different approaches and standards within the NAV market could be acting as a further barrier to new NAV entrants.

Below is a summary of the status of the current (as at 31 October 2019) industry position of each of the industry issues that we are experiencing.

Issue 1 - Incumbents implement acceptable NAV tariff

IWNL remain concerned with the level of variability across incumbent water companies and the overall level of the proposed NAV Bulk supply charges. All companies have been rated as red as we are unable to understand which tariffs are correct given the range of remaining variability. We welcome Ofwat's appointment of an advisor to review the NAV Bulk supply charges but are concerned that this work will not conclude in time for the revisions to the 2020/21 charges. IWNL will await the outcome of this work before deciding whether to take any further action.

Issue 2 - Organisational behaviour – Incumbent NAV policy framework in place and adhered to.

IWNL observe a considerable variation in the behaviour and approach of water companies in supporting the development of effective markets. IWNL hope by providing direct feedback on each company this will help those less effective companies to improve their performance further. IWNL are particularly concerned with [REDACTED] underlying behaviour and failure to deliver and commit to delivering real change.

Issue 3 - Incumbents provide accurate metering readings in line with Bulk Supply Agreement and or Retail code.

IWNL remain concerned by incumbent's performance in the provision of accurate meter readings. This remains an issue with regards to [REDACTED]

Issue 4 - Removal of all requirements for financial holding accounts

Despite recent proposed changes to the approach IWNL are concerned that an incumbent still see the need for financial holding accounts for NAVs that are licenced, credit worthy and have good bill payment records.

Issue 5 - Incumbents provide additional services (emergency service cover etc) on equivalent terms.

IWNL welcome the progress made with incumbents in the development of additional service agreements, particularly [REDACTED]

However, there are five companies that are not prepared (for various reasons) to offer additional services on reasonable commercial terms.

Issue 6 - Incumbents apply new connection charges consistently and equivalently to all NAV applications

There continues to be a large variation in the clarity and application of companies connection charges across incumbent water companies. For some companies IWNL continue to require a large number of challenges and further clarifications before a point of connection quotation (discharge) can be agreed. IWNL are also concerned with how the changes to the 2020/21 charges are being applied and how transitional arrangements will be applied to ensure a level playing field for all licenced operators. have made significant changes to their process to ensure their connection charging methodologies are clear and applied consistently. We require very few challenges of their charging methodologies.

Issue 7 – Industry Standard Bulk Supply Agreement (BSA) in place (Water UK action).

IWNL remain concerned with the lack of progress for the implementation of a standard Bulk Supply agreement across the water industry. IWNL welcome the reformation of Water UK’s working group in 2019 to look to address this issue but remain concerned by the lack of real progress made in recent months and are unsure of individual incumbents’ intention to follow through with full implementation. IWNL are disappointed that the industry has failed to hit its revised latest implementation deadline of the end of October 2019. continue to be difficult to reach an acceptable agreement with as they require additional conditions that other incumbents don’t include.

Issue 8 - New NAV service standards accepted and implement by the industry through D-MEX

IWNL welcome the agreement of the NAV service standards at the Water UK industry working group. IWNL look forward to the formal implementation of these through the PR19 D-Mex measure in time for the end of March 2020. IWNL expect incumbent water companies to abide by their commitment not to challenge these further.

Issue 9 - Incumbents provide self-service POC/POD application and approval (Water UK action)

Despite Water industry commitments to look further at the introduction of a Self-Serve point of connection (discharge) system IWNL remain disappointed by the limited progress made by incumbents. IWNL welcome the positive engagement with some incumbents but are concerned by the lack of any industry commitment to develop a common industry approach. IWNL understand that the Water UK working group has now been closed.

Issue 10 - Incumbents agree to Brown field NAV consents

IWNL welcome recent reassurance from incumbents that they now have policies in place to allow for connections based on incumbent consent rather than the site not being supplied. IWNL look forward to working with Incumbents on this basis.

Issue 11 – Incumbents adoption of pumping stations

IWNL welcome the majority of incumbent’s agreement to adopt pumping stations in certain circumstances. IWNL require further clarification of these circumstances as part of an incumbents NAV policy framework. IWNL are disappointed that two companies [REDACTED] are not prepared to adopt pumping stations in any circumstances.

Issue 12 - Standard POC/POD NAV service levels complied with by all incumbents

IWNL welcome the improvement in the time taken by incumbents to deliver point of connection (and discharge) applications since the start of 2019. IWNL look forward to the further visibility of incumbent’s performance that the introduction of the D-MEX in April 2020 will bring. IWNL are very concerned by the underlying performance of [REDACTED] and despite further recent commitments to improve this we are concerned that previous commitments to improve have failed to address the underlying issues.

Issue 13 - All unnecessary requirements and charges for Boundary metering removed

IWNL welcome incumbents’ clarification that they will not charge for the installation of Boundary metering on the edge of a NAV site and the updates to their NAV policies.