

4 March 2020

Proposal to grant a variation of appointment to Leep Networks (Water) Limited to enable it to provide water and sewerage services to a site called Chatham Waters, in Gillingham

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1. About this document

We propose granting a variation of appointment to Leep Networks (Water) Limited (“**Leep Networks (Water)**”) as a water and sewerage company and varying the appointment of Southern Water Services Limited (“**Southern Water**”) as a water and sewerage company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

2. The Site

Leep Networks (Water) has applied for a variation to its appointment to be able to provide water and sewerage services to a site called Chatham Waters, in Gillingham (“**the Site**”). The Site will comprise 950 residential properties. The planning permission also grants permission to build 35,000m² of commercial non-household development, and is expected to be fully built out in 2030.

Site boundary maps can be viewed in section 8 of this document.

The Site is within the water and sewerage services area of Southern Water. The proposal is for Leep Networks (Water) to replace Southern Water for water and sewerage services.

3. The applicant

In June 2019, Leep (via Leep NAV Networks Limited, a newly incorporated subsidiary of group company Leep Utilities Water Limited) informed Ofwat that it proposed to directly acquire 100% of the shares in SSE Water (“SSE”) from SSE plc. The outcome of the acquisition is that Leep Utilities Water Limited would own two NAV companies: Leep Water Networks Limited and SSE. Leep confirmed that its intention was to consolidate all of its existing appointments and variations into SSE, which has been renamed Leep Networks (Water) Limited.

Leep Networks (Water) requested that Ofwat consider an application to vary its appointment to include the development at Chatham Waters.

In October 2007, Leep Networks (Water), then as SSE, obtained its first appointment as a water and sewerage undertaker on 1 October 2007 for a housing development called the Portway, Old Sarum in Wessex Water’s area. Since then, Ofwat has agreed to vary Leep Networks (Water)’s area of appointment so that it serves a further 32 sites for water and/or sewerage services.

The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Leep Networks (Water) as a water and sewerage company; and
- vary the appointment of Southern Water as a water and sewerage company by excluding the Site from its water supply area and its sewerage services area.

By means of the above, Leep Networks (Water) will become the water and sewerage services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation¹, provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a 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 that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat 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.

We clarified these two policy principles in February 2011, and updated them more recently, when we published our New appointments and variations – [policy](#) (2015) and [process](#) (2018) documents. In December 2015, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – ie customers of the existing provider and customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

¹ The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

6. The application

Leep Networks (Water) has applied to be the water and sewerage company for the Site under the large user criterion, set out in section 7(4)(bb) of the WIA91.

6.1 Large user status of the Site

To qualify under the large user criterion, each of the premises on the Site must be supplied with (or be likely to be supplied with) at least 50 MI of water in England in any 12-month period (250 MI of water in Wales) and the customer in respect of those premises must consent to the appointment. The same threshold levels apply to variations of appointments for sewerage services (i.e. appointments may be made to serve business customers who are supplied or expect to be supplied with at least 50 MI of water in England (250 MI of water in Wales), the threshold applying to the amount of water supplied, not effluent discharged).

The land on which the Site is to be constructed is owned by Peel Land and Property. There are three commercial premises on the Site: a supermarket, a licensed premises and a technical college. They are all currently served for both water and sewerage by infrastructure privately owned and operated by Peel Land and Property. The three commercial premises are leaseholders on the Site. There are 199 household properties currently being constructed on the Site, using the private infrastructure.

Leep Networks (Water) has provided a letter from the owner of the land, consenting to it being served by Leep Networks (Water). Leep Networks (Water) asserts that the Site under development and the associated infrastructure comprises a single premise. The premises comprises an existing private network plus an additional area of brownfield land under development. A new network will be provided for the brownfield land and on completion of the works, both private and new infrastructure will be adopted by Leep Networks (Water).

Leep Networks (Water) has provided information which sets out the current and expected volumes of water and sewerage for the Site. This quotes the '[Application guidance for new appointments and variations](#)', which states that a site in England must either currently use, or will be expected to use, in excess of 50 megalitres per annum. The projection is that this threshold will be reached between years two and three, peaking at around 110 megalitres.

Given the information provided by the applicant, we are satisfied that the Site may be considered under the large user criterion.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (“Business Customers”) in England and Wales are able to choose their supplier².

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

6.3 Price

Leep Networks (Water) proposes to match Southern Water’s charges to customers i.e. it will not offer a discount.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Leep Networks (Water)’s proposed Core Customer Information, and our view is that these are of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the points covered by the above Codes of Practice and the Customer Code than they would be if Southern Water were to be the customers’ water and sewerage services supplier.

² The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 MI where the relevant area is wholly or mainly in Wales) can effectively switch suppliers of water and/or sewerage from 1 April 2017.

6.5 Site owner choice

Leep Networks (Water) has the consent of the Site developer (Peel Land and Property) to become the water and sewerage services provider.

6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application³.

6.7 Incumbent's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Southern 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. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much Southern Water 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 Leep Networks (Water).

We estimate a potential £0.006 annual increase on the water bills of existing Southern Water customers and a potential increase of £0.003 on the sewerage bills of existing Southern Water customers if we grant this variation to Leep Networks (Water). This is once the Site is fully built out.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

³ The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

Therefore we consider that granting this variation to Leep Networks (Water) would have a very small financial impact on customers' bills and could have potential benefits for customers.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

We have considered the revenues and costs of the Site relating to the provision of water and sewerage services should the relevant appointment/variation be granted. Following our review, which considered our standard analysis and the specific risks associated with the Site we have concluded that in all scenarios we have considered, the Site is able to demonstrate that its expected revenues will cover its expected operating costs.

We are satisfied that the financial security Leep Networks (Water) will have in place meets our minimum requirements for this Site, in that it covers one year's annual operating costs required to supply the number of connections the business is projected to have in two years' time.

On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are currently satisfied that Leep Networks (Water) would be able to finance its functions if the variation is granted.

7. Conclusion and next steps

In assessing Leep Networks (Water)'s application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Leep Networks (Water) would be able to finance, and carry out, its functions. We have also considered the effects of granting the variation on the existing customers of Southern Water.

We are currently minded to grant the variation under the large user criterion. We are consulting on our proposal to do so.

Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Chris Daly at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at chris.daly@ofwat.gsi.gov.uk or through our web form.

Representations must be received by Ofwat no later than 17.00 hours on 1 April 2020. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site maps

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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