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Variation of Icosa Water Services Limited's appointment to include Sodbury Road in Wickwar, Gloucestershire

About this document

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On 5 October 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 Wessex Water Services Limited's ("**Wessex Water**") sewerage services area called Sodbury Road in Wickwar, Gloucestershire ("the Site").

The consultation ended on 4 November 2020. During the consultation period, we received representations from two organisations, which we considered in making our decision.

On 24 November 2020, 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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1. 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 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 Wessex 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.

2. 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 way of a bulk discharge agreement with Wessex Water

2.1 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 proposed area of appointment is a greenfield site and aerial view photos indicate that there are no existing buildings on the site. Wessex Water has provided a letter dated 5 March 2020 confirming that the Site meets the unserved criterion.

Having reviewed the information available on the site, and taking into account the letter from the incumbent, we consider the Site to be unserved.

2.2 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.

2.3 Assessment of 'no worse off'

Icosa Water will match the charges of Wessex Water at the Site.

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 Wessex 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 Wessex Water.

2.4 Effect of appointment on Wessex Water's customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that Wessex 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 Wessex 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 Wessex 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 impact on the sewerage bills of Wessex Water's existing customers of £0.001 per year.

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.

2.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Vistry Homes, said that it wanted Icosa Water to be the sewerage company for the site.

3. Responses received to the consultation

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

3.1 CCW's response

CCW stated that in general it expects new appointees to provide customers with prices, levels of service and service guarantees that match or ideally better those of the incumbent sewerage company.

CCW noted its disappointment that there will be no direct financial benefit to customers from having Icosa Water as their provider of sewerage services given it plans to match the charges of Wessex Water. However it expects Icosa Water to generally exceed the service standards of Wessex Water, providing the example that Icosa Water provides a better service to customers on internal flooding incidents. For this reason CCW supports the application and agrees with our assessment that overall customers will be no worse off.

CCW noted that Icosa Water will not be able to offer a social tariff to financially vulnerable customers in the way Wessex Water does, but will offer the standard WaterSure tariff for qualifying customers. CCW states that given its relatively small size and customer base it may be appropriate for Icosa Water to tailor some of the services that it provides. CCW set out its expectation that, until it is able to provide a formal social tariff, Icosa Water would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff. This should not be at the expense of its other customers. CCW expects Icosa Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

CCW noted our conclusion that Wessex Water's existing customers would see a potential increase of £0.001 in their sewerage bills as a result of the variation. It notes that whilst this is a very low increase, there is no evidence of significant benefits to the existing customers of Wessex Water.

3.2 Environment Agency

The Environment Agency's response confirmed that it had no objection to the application, but noted a number of points for Icosa Water to consider to minimise potential risks to the environment. The Environment Agency stated that it is understood that the waste water from the Site will be treated by the Wessex Water at Wickwar wastewater treatment works, with no requirement for additional treatment capacity. However, in its view, the sewerage load resulting from this development must not cause a deterioration in the current status of the receiving water (both in terms of Water Framework Directive standards and any other relevant standards i.e. Habitats Directive).

The Environment Agency stated that it would encourage the use of Sustainable Drainage Systems ("**SuDS**") to mitigate surface water runoff, where possible, including consideration and plans for the maintenance of SuDS assets into the future and any impacts on local amenity. SuDS should also be considered to ensure there is no downstream flooding as a result of this development.

The Environment Agency felt that extra precaution should be taken to ensure properties are connected correctly and to prevent misconnections to surface water drains to prevent adverse environmental impact.

The Environment Agency understands that Icosa Water has a management system in place for dealing with incidents. However, EA felt it advisable, should a pollution incident occur and pose a risk to the environment, that incidents are also reported to the Environment Agency Incident Hotline. The Environment Agency suggested that this is incorporated into Icosa Water's procedures.

We have brought the observations to Icosa Water's attention, and expect that appropriate steps are taken to ensure that appropriate precautions are taken.

4. 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 variation became effective on 25 November 2020.

**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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