



“Bulk Charges for New Appointees – a consultation on revising our guidance”

Leep Networks (Water) Ltd – response

1.1.2 Legal Framework

Bulk Agreement Disputes – General comments

Terms of an agreement

We agree with the general approach taken to disputes and recognise that the Authority may only act within the confines of the Water Industry Act 1991. We would seek greater clarity on how such disputes may be determined and would like to see some general principles around expected timescales for such determinations. We understand that the nature of the dispute may involve legal matters requiring significant input and that fixed levels of service would therefore be difficult to meet. However, in the case of a new application, a New Appointee may only be granted a variation on receipt by Ofwat of signed bulk agreements and hence the possibility of a potentially open-ended dispute resolution places the applicant at a disadvantage from the perspective of client satisfaction. Where a dispute involves a proposed agreement, we would therefore like to see the inclusion of an interim determination whereby the parties would be required to enter into a standard contract in line with those now agreed across the industry, pending the outcome of the dispute.

Price terms

We note that most incumbent companies have moved towards setting NAV tariffs based on the principles in the consultation and we welcome this approach. We also note that there is an expectation that services provided under current agreements will be priced to reflect the new tariffs and as most bulk agreements contain schedules referencing published tariffs, this would seem reasonable. Where the price terms were agreed with reference to the cost to serve a specific site and could thus be said to be outside the standard tariffs, we suggest that such agreements already reflect the principles outlined in the proposed guidance and should only be changed with the agreement of both parties.



2.0 Approach to disputes

2.2.1 The relevant starting point

We agree that the relevant starting point should be the wholesale charges that would apply had the incumbent been providing the services to the site. We also support a menu-based approach as this will provide a timely method for a NAV to estimate its likely financial position for a proposed variation. In our response to the consultation on NAV charges, we noted that some incumbents will require regular returns from the NAV detailing the number and type of connections at a site on an ongoing basis. We would prefer that such notifications should be done on a minimal basis to reduce the administrative burden and therefore support an annual return, with any associated charge changes settled.

With regard to the use of Large User tariffs, we agree that where one or more large users exist on a site, the incumbent's wholesale LU tariff would be a reasonable relevant starting point. A large user may not be present on the site in the early stages of construction and we would suggest that when the existence of such a customer is notified to the incumbent, that this would be reasonable grounds for requesting a change in the tariff structure.

2.2.2 Relevant avoided costs

In our response to the consultation on NAV charges, we supported the broad principles of the relevant avoided costs, though we also suggested that the wholesale element of customer debt should be considered as an avoided cost, as the incumbent is able to recover charges for all services to the NAV and is not therefore not required to make provision for debt.

We have no further comments.

John Gibson
For Leep Networks (Water) Ltd

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