



David Black
Chief Regulation Officer
Ofwat
Centre City Tower
7 Hill Street
Birmingham
B5 4UA

17 December 2020

Dear David

Request for issue of revised Charging Rules

As you are aware, the CMA's revised timetable now contemplates publication of its redetermination for each of Anglian, Northumbrian and Bristol (the "Companies") by "mid-February 2021". The Companies have raised concerns about the consequences of continuing to charge in accordance with Ofwat's 2019 Determination for the second year of AMP 7, when we should be giving effect to the result of the redetermination and smoothing any impacts on customers to minimise customer detriment. The Companies have therefore asked the CMA whether it would be willing to issue four year "k"s (which are needed to allow the recovery of revenues which are consistent with the CMA's redetermination in the 2021-2022 financial year). In an email to Andrew Beaver received earlier today the CMA has confirmed that its *"current view is that [it has] no in principle objections to either a 3 or 4 year k"*.

The Companies have therefore been considering how the CMA's re-determination could be implemented with effect from 1 April 2021. We note that, in the course of your hearing with the CMA on 2 December 2020, you commented that implementation of charges over four years was considered to be *"difficult"* but *"not impossible"* and commented that Ofwat was *"happy to engage with [the CMA] in terms of is there a way through it"*. The Companies have concluded that the appropriate way forward within the scope of the Water Industry Act 1991 ("WIA") would be for Ofwat to issue revised Charging Rules. The basis of our request is explained below.

Anglian Water Services Ltd
Lancaster House, Lancaster Way,
Ermine Business Park, Huntingdon,
Cambridgeshire. PE29 6XU
Registered in England
No. 2366656

Bristol Water PLC
Bridgwater Road,
Bristol
BS13 7AT
Registered in England
No. 02662226

Northumbrian Water Limited
Northumbria House,
Abbey Road, Pity Me,
Durham, DH1 5FJ
Registered in England
No. 02366703

Ofwat's power to issue Charging Rules derives from various provisions of the WIA (as amended by the Water Act 2014). Specifically, Ofwat has the power to issue rules in relation to:

- end user (household) charges pursuant to WIA Sections 143(6A) and 143B;
- charges in respect of supplies to retailers pursuant to WIA Section 66E and 117I; and
- charges in relation to new connections pursuant to WIA Sections 51CD, 105ZF and 144ZA.

The Charging Rules that have been issued by Ofwat in relation to 2021/22 charges impose the following deadlines:

- In relation to household charges:
 - undertakers must provide Ofwat with a statement setting out any significant changes anticipated by the undertaker (i.e. any bill increases of more than 5% from the previous year) and publish the statement, at least three weeks before the publication of the charges schemes (being 11 January 2021);
 - Charges schemes must be published no later than 1 February 2021;
- wholesale charges must be published at least eleven weeks before the start of the period for which the charges will be imposed. For 2021 this requires that the Companies publish their Final Wholesale Charges Schedule on 13 January 2021 (as set out in IN 20/07).
- charges for new connections must be published no later than two months before the period in relation to which they have effect. Accordingly, these charging arrangements must be published by 31 January 2021.

Unfortunately, due to the extension of the CMA's process, charges which are based on a redetermination issued by the CMA in "mid February" would not meet the deadlines that Ofwat has set in accordance with the existing Charging Rules. However, Ofwat has power to amend its rules in relation to charges. These powers are derived from the WIA (see subsections 143B (8), 66E (8) and 144ZA (9)). In each case there is provision for revisions that are "necessary or desirable to make without delay" which permit revised rules to be issued without the need for consultation (subject to Ofwat giving notice of its intention to issue revised rules to the Secretary of State).

The Companies understand the importance of communicating with the various third parties who will be required to pay charges in 2021 (including, but not limited to, retailers who will pass those charges on to non-household customers). There has already been some consultation with both retailers and with the Consumer Council for Water ("CCW") regarding the impact of any delay in finalising charges. CCW have indicated that they would prefer any increase in bills flowing from the redetermination to be "smoothed" over four years, as opposed to seeing a marked "up tick" in bills in 2022. The early engagement with major retailers has also been positive whilst highlighting the challenges of the timetable. Nevertheless, the Companies recognise the need for wider engagement with stakeholders on this matter and propose to take that forward during the coming weeks.

The Companies therefore request that Ofwat should issue revised Charging Rules to take effect on or before Monday 11 January 2021 (noting the need for a 14 day notice period) which (i) dispense with the requirement for a statement of significant changes and (ii) permit publication by Companies of 2021-22 charges (for household, wholesale and new connections) no later than Friday 19 February 2021. The Companies still expect to comply with provisions equivalent to those set out in Section A1 of the Appendix to the Charges Scheme Rules (relating to Board Assurance) and would be willing to provide an appropriate Board Assurance Statement to Ofwat in conjunction with the issue of charges.

Clearly, the timetable outlined above assumes that the CMA issues its re-determination during the week commencing Monday 8 February 2021. If the CMA is unable to work to this deadline it will not be possible to reflect the re-determination in 2021/22 charges. In these circumstances, the Companies acknowledge that charges for 2021-22 would need to be set on the basis of Ofwat's Final Determination (and any additional revenues associated with the re-determination recovered over the remaining 3 years of AMP 7).

In the interests of transparency, pending a resolution to this issue, the Companies propose that, alongside the charges that flow from the 2019 FD, they should publish indicative bill-incidence effects based on Companies' responses to the CMA's Provisional Findings. The Companies understand that it is unlikely that the redetermination will result in either of these two alternative bill outcomes but, by publishing both the Companies responses and the Ofwat FD, third parties will be informed as to the two bookends for charges which will assist with their planning. Once the redetermination is published the Companies would then update all relevant parties as to the final charges to be implemented.

We would therefore be grateful for the opportunity to meet with you as soon as possible (and ideally during w/c 21 December 2020) to discuss this matter and for your early confirmation that Ofwat will issue revised Charging Rules to each of the Companies (to supersede the current 2021/22 Charging Rules).

Yours sincerely

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Alex Plant

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Anglian Water Services
Limited

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Andrew Beaver

Director of Regulation,
Northumbrian Water
Limited

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Iain McGuffog

Director of Strategy &
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cc Douglas Cooper, CMA