

December 2020

# **Proposal to grant a variation of appointment to Leep Networks (Water) Limited as a water and sewerage company**

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## 1. About this document

We propose granting a variation of appointment to Leep Networks (Water) Limited (“**Leep Water**”) as a water and sewerage company and varying the appointment of United Utilities Water Limited (“**United Utilities**”) 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 Water has applied for a variation of appointment to be able to provide water and sewerage services to a site called Liverpool John Lennon Airport (“**the Site**”). Site boundary maps can be viewed in section 8 of this document.

The Site comprises a single, existing business property, Liverpool John Lennon Airport. Peel Airports Ltd acquired a majority share in Liverpool John Lennon Airport in 1997. Peel Airports Ltd is owned by Peel Group which also owns Leep Water.

The on-site network is owned and maintained by the Site owner, Liverpool John Lennon Airport. Leep Water will not adopt the assets or become responsible for their maintenance.

The Site is within the water and sewerage services area of United Utilities.

The Site is in a retail exit area where the retailer is Water Plus Group Limited (“**Water Plus**”). Leep Water will not become the retailer for the Site.

### 3. The applicant

In October 2007, SSE Water obtained its first appointment as a water and sewerage undertaker for a housing development at the Old Sarum site in Wessex Water's area. Since then Ofwat has agreed to vary SSE Water's area of appointment so that it serves a further 34 sites for water and/or sewerage services. The register of new appointments and variations can be viewed [here](#).

In June 2019, Leep Utilities (Water) Limited (via Leep NAV Networks Limited, a newly incorporated subsidiary of group company Leep Utilities (Water) Limited) acquired 100% of the shares in SSE Water from SSE plc. The outcome of the acquisition was that Leep Utilities (Water) Limited would own two NAV companies: Leep Water Networks Limited and SSE Water. Leep Water consolidated all of its existing appointments and variations into SSE, which has been renamed Leep Networks (Water) Limited.

## 4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Leep Water as a water and sewerage company to include the Site in its water supply and sewerage services areas; and
- vary the appointment of United Utilities as a water and sewerage company by excluding the Site from its water supply and sewerage services areas.

By means of the above, Leep Water will become the water supply 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 legislation,<sup>1</sup> 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 \(2015 and 2019\)](#) 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 – i.e. 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.

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<sup>1</sup> 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 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, in relation to new appointments for water supply:

- each of the premises on the Site must be supplied with (or be likely to be supplied with) at least 50 Ml of water in England in any 12-month period (250 Ml of water in Wales); and
- the customer in respect of those premises must consent to the appointment.

The same threshold levels apply to new appointments for sewerage services (i.e. new appointments may be made to serve business customers who are supplied or expect to be supplied with at least 50 Ml of water in England (250 Ml of water in Wales), the threshold applying to the amount of water supplied, not effluent discharged).

Leep Water provided a letter, dated 17 July 2020, from the sole customer on the Site, Liverpool John Lennon Airport, consenting to it being served for water supply and sewerage services by Leep Water.

Leep Water estimates annual consumption at the Site of 80 Ml per annum. It provided copies of the Water and Wastewater Bills for the Site for the period 18 December 2017 to 23 September 2018 and the period 19 November 2018 to 18 December 2018. This demonstrates that usage at the Site exceeds the threshold in England to serve business customers with at least 50 Ml of water in any 12-month period.

### 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 supplier.<sup>2</sup>

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 Water will charge an equivalent charge to that of United Utilities. Customers at the Site will not be charged more than they would had the Site been served by the incumbent.

### **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 Leep Water’s proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Leep Water’s proposed Customer Code of Practice than they would be if United Utilities were to be the customers’ water and sewerage services supplier. On this Site Leep Water will only be providing wholesale services and will have a single customer which is non-household.

### **6.5 Site owner choice**

Leep Water has the consent of the Site owner, Liverpool John Lennon Airport, to become the water supply and sewerage services provider.

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<sup>2</sup> 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 Ml where the relevant area is wholly or mainly in Wales) have been able to effectively switch suppliers of water and/or sewerage since 1 April 2017.

## **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 application<sup>3</sup>.

## **6.7 Incumbent's existing customers**

In considering whether customers will be no worse off, we consider the potential effects of this variation on the prices that United Utilities' existing customer base may face.

We assess the potential magnitude of this impact by comparing how much United Utilities 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 United Utilities.

As there is only one business customer on the Site and no households we have not been able to carry out the same analysis in respect of the impact on the customers of U UW. But as there is only one customer on the Site there is unlikely to be any impact.

There are potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore we consider that granting this variation to Leep Water is unlikely to have any financial impact on the bills of United Utilities' customers 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.

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<sup>3</sup> 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.

We have considered the revenues and costs of the Site relating to the provision of water and sewerage services should the relevant variation be granted.

The Site is able to demonstrate that its expected revenues will cover its expected operating costs. The Site is expected to provide an operating profit margin of 6.8%. LNL will not be the retailer, this function will be performed by WPG and it is WPG who will retain the bad debt risk. As the network will remain a private network owned by LJLA, LJLA will retain the financial risk of any leakage. Due to the specific characteristics of the Site we consider the application to be low risk.

Leep Water has provided details of its financial security, which meets our requirements, 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, we are currently satisfied that Leep Water would be able to finance its functions if the variation is granted.

## 7. Conclusion and next steps

In assessing Leep 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 Water would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of United Utilities.

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

### 6.1 Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Fenella Brown at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at [licensing@ofwat.gov.uk](mailto:licensing@ofwat.gov.uk).

Representations must be received by Ofwat no later than 17.00 hours on 7 January 2021. 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

### Water



Sewerage



**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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