

April 2021

Variation of Icosa Water Services Limited's appointment to include Stones Farm, Sittingbourne

About this document

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On 10 August 2020, Ofwat began a consultation on a proposal to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the water and sewerage services provider for a development in South East Water Limited's ("**South East Water**") water supply area and Southern Water Services Limited's ("**Southern Water**") sewerage services area called Stones Farm in Sittingbourne, Kent ("**the Site**").

During the consultation period, we received representations from one organisation, which we considered in making our decision. On 22 February 2021, we granted Icosa Water a variation to its existing appointment to enable it to supply water and 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 water and 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 South East Water and Southern Water to become the appointed water and 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 water and 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 bulk supply and discharge agreements with Southern Water.

2.1 Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment or variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

Aerial view photographs indicate that there are no existing buildings on the site. Southern Water has provided a letter in January 2021 in which it provides confirmation that it considers that the Site meets the unserved criterion. South East Water provided a letter in July 2020 in which it confirmed its view that the Site was unserved.

Having reviewed the information available on the Site, and taking into account the letters from the incumbents, we consider the Site to be unserved.

2.2 Financial viability of the proposal

We will only make an appointment or variation 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 the incumbent suppliers 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 South East Water and Southern 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 South East Water and Southern Water.

2.4 Effect of variation on South East Water and Southern 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 South East Water's and 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 on customers of South East Water and Southern 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 South East Water and 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 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 bills of the existing customers of South East Water of £0.011 per annum, and Southern Water's existing customers of £0.003 per annum.

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, Chartway Group, said that it wanted Icosa Water to be the water and sewerage company for the Site.

3. Responses received to the consultation

We received one response to our consultation, from the Consumer Council for Water (“**CCW**”). We considered this response before making the decision to vary Icosa Water's appointment. The points raised in the response are set out below.

3.1 CCW

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 South East Water and Southern Water.

CCW noted its disappointment that there will be no direct financial benefit to customers from having Icosa Water as their provider of water and sewerage services given it plans to match the charges of South East Water and Southern Water. However it expects Icosa Water to generally exceed some of the service standards of South East Water and Southern Water, providing the example that Icosa Water provides a better service to customers on handling complaints and providing automatic disturbance allowances where there have been sewer 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 South East Water and Southern Water do, 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 South East Water's existing customers would see a potential increase of £0.011 in their water bills, and that Southern Water's customers would see a potential increase of £0.003 in their sewerage services 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 South East Water and Southern Water.

4. Conclusion

Having assessed Icosa Water's application, and having taken account of the response 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 water supply and sewerage services. This variation became effective on 23 February 2021.

Appendix 1: Site Maps



**Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
We regulate the water sector in England and Wales.**

Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA

Phone: 0121 644 7500
Fax: 0121 644 7533

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