

Via email: Charging@ofwat.gov.uk

03 August 2021

Dear Ofwat,

A consultation on updating our charging rules

Thank you for the opportunity to respond to this consultation regarding updates to the charging rules for 2022/23.

We welcome the improved clarity that alignment of publication dates across new connections charging arrangements and the charges schemes rules will bring. We support the move to a simpler, date focused approach, for deadlines across all three charging publications. We also endorse the pragmatic approach of simultaneous publication of statements of significant change and charges scheme rules, though we suggest a further simplification in our response below.

As indicated in our balance of charges consultation response, we have been very active in supporting changes to Developer charges, through our participation in industry forums and in engaging key stakeholders and customer groups. We understand the need for Developer Services charges to be cost reflective and are committed to working alongside Ofwat to ensure any cost reflectivity rule is practical and applied consistently across the industry, to better support our developer customers. The experience and journey of our developer customers is at the forefront of our thinking as we work to provide leading customer service, and as we support the SLP and NAV markets.

As well as taking a leading role in creating a collaborative industry response in relation to terminology and worked examples, we have provided comments on each of the proposed changes within this document. In line with the consultation document, we have split our responses by section.

I hope you find our response helpful, please do not hesitate to reach out if you have any queries.

Yours sincerely,

Nicky Fomes

Strategy and Regulation

Changing publication dates for charges

We agree that it is more straightforward to fix the deadlines for publications to specific dates rather than have rules that set deadlines by counting back calendar weeks/months from 1st April. We are content that the deadline for wholesale charges publication is set at 13th January and for charges scheme charges and new connections charges, 1st February.

Statements of significant change

We agree with the intention of the change, as it would permit (but not compel) simultaneous publication of charges schemes and statements of significant change. This provides flexibility for companies that wish to make use of it.

The proposed wording could be simplified. As the date for publication of charges is to be fixed to 1st February (proposed change to CSR rule 9), the deadline for statements of significant change can now also be set as a fixed date. This could be accomplished by changing the wording 'at least three weeks before the deadline for publication of the charges schemes' to 'by 11th January'.

Cost reflectivity

In our recent response to the consultation on the scope and balance of developer charges, we highlighted the challenges between retaining the balance of charges and introduction of a formal cost-reflectivity rule.

Cost reflectivity is a key principle when providing our customers with charges associated with their development scheme. This is key to ensuring we support an open and effective market.

To support our understanding of how a cost reflectivity rule may work in practice, we feel it would be beneficial to understand the period of time, over which companies will need to demonstrate cost reflectivity. Critically, we would seek a definition of 'long run costs' as indicated in the proposed rule term. This would also enable us to better understand how new cost reflectivity rules could work alongside existing charging objectives, such as the stability and predictability of charges, where there may be resulting tension should this not be appropriately defined.

Consistent terminology

We have played a leading role in the new connections working group set up to standardise charging terminology across the industry. We feel it is important for developer customers, who work across multiple water company areas, to be able to easily cross reference between different charging arrangements and have confidence that terms and definitions are agreed across the industry. In addition, we have been mindful to simplify language where possible, to ensure our smaller home builders and one-off customers can understand the terms and definitions we use across the sector.

As we have been very active in the working group, our feedback on terminology, and considerations for our stakeholders' opinions have been captured in the sector response sent by Water UK.

Using worked examples

Similar to the above, we have been active in leading work to create a standard set of worked examples for use in charging arrangements across the industry. In addition, our work included standardisation of data tables to attain a consistent presentation of worked examples across all water companies. We recognise that this has been omitted from this consultation but welcome the acknowledgement that these will feature in a second consultation on this topic.

We fully support the use of worked examples in our new connections charging arrangements, as they provide a useful frame of reference for developer customers. It is, however, imperative that all companies work to the same assumptions if this is to be beneficial for the customer. We therefore welcome the improved granularity of the worked examples and the effort taken to improve consistency.

As we have been very active in the working group, our feedback on the worked examples, and considerations for our stakeholders' opinions have been captured in the sector response sent by Water UK.

Where to issue rules on infrastructure charges

We agree that it is sensible for the infrastructure charges rules to be removed from the charges scheme and set out instead in the new connection rules.

For customer experience reasons, over the last two years, we have referenced infrastructure charges within our new connections charging arrangements in addition to their publication within the charges scheme. We therefore support this change and believe this will improve developer customers' understanding of the relationship between infrastructure charges and new connections charges.

Income offset and connecting to existing mains

We are content with the proposed change, as it would permit, but not compel, companies to offer income offsets against connections to existing mains as well as new mains.

As noted in our consultation response on future developer charges, the proposal that the income offset is removed from 2025, although economically sensible, will have a significant impact on our developer customers. This will need careful management and we would ask Ofwat to consider phasing-in over several years to help companies manage any potential negative impact.

Network reinforcement and NAVs

We are fully committed to supporting and enabling effective markets within our region. We actively engage with NAVs working in our supply area and have regular meetings with our NAV customers to ensure we support their work. We have built strong relationships in this area as a result.

We are seeing the number of NAV applications accelerating and believe it would be timely to update the definition of network reinforcement, so that it includes such reinforcement resulting from NAV connections. Accordingly, we agree with the proposed wording and believe it will also ensure compliance with level playing field principles and assurance that competition law is adhered to across all developer customer types.

Quotes spanning different charging years

We are content with this proposed new rule as we see transitional arrangements and cost-advice validity as key, and we refer to this within our new connections charging arrangements. We do, however, acknowledge that we can do more to communicate this with all our developer customers, and therefore will work to ensure we accurately provide clear validity information relating to cost-advice documents.

Setting Infrastructure Charges – clarification

While we welcome the intention to provide clarity provided relating to the infrastructure charge 5-year rule and its structure, we seek further detail from Ofwat on this topic.

When setting our infrastructure charge, we review forecasted network reinforcement work in our region required as a direct consequence of growth in our region. Although forecasting gives us good insight, many factors can impact actual works completed, such as developments being delayed, or unexpected costs in-year due to developments previously not identified at pre-planning stage coming forward. Because of this, we track, and review annual spend and connections against our forecast throughout the financial year and throughout the AMP. This enables us, if required, to amend our infrastructure charge in the next financial year to maintain a cost reflective charge. Although we use market insight and stakeholder engagement to attempt to support our forecast, we still feel using historic data is beneficial to ensure cost-neutrality.

We also seek clarity on how the cost reflectivity rule would interact across infrastructure charges. Should this proposed clarification rule be introduced, Ofwat's ambition of achieving a stable and predictable infrastructure charge over a longer period would be difficult. Again, there is clear tension between cost reflectivity and stability and predictability.

In addition, we note Ofwat's intention for companies to only set infrastructure charges based on a wholly forward-looking basis, but that a backwards validation has been previously proposed to verify any variances of charges. We would request clarification of the intention to mandate companies to report on this, but also to explain the treatment should variances be identified. If there is no basis to increase or decrease future infrastructure charges based on this backwards-looking report, there seems little benefit in the activity.

Finally, we feel there is contradiction in the consultation which states that Table 2K, 'Network infrastructure reinforcement reconciliation', which was introduced in the 2018-2019 APR, intends to provide a commentary of the balance of costs and revenue. Ofwat references a statement made in the April 2017 consultation, "If there a difference between expenditure and receipts in one year, customers will want to understand the reasons behind it and want assurance the imbalance will be corrected in future years.". If infrastructure charges are to be set based on a wholly forward-looking basis, imbalance is unable to be corrected in future years.

We request further review of this section and would welcome improved clarity.