Response Document for the consultation on updating OFWAT's Charging Rules

The Home Builders Federation is the principal trade association for the home building industry in England and Wales. HBF's membership of more than 300 companies builds most of the market sale homes completed in England and Wales, encompassing private developers and Registered Providers. The majority of HBF's private home builder members are small or medium-sized companies. When responding to any consultation, HBF seeks representative views from its membership and responds accordingly.
As the main trade association for the home building industry our members, constitute one of the largest bodies of customers who will be affected by the outcome of this consultation. As such, we trust that considerable qualitative and quantitative weight will be afforded to our comments.

This response to the consultation received is based on feedback for our members at various meetings held online and specifically at the HBF dedicated Water Maters Group meeting.

In responding to the questions listed in this particular consultation we feel it necessary to address a number of the points set out in various paragraphs running from points 3.1 – 3.2.9 to comprehensively answer the detailed requests. These responses are set out below:

Q1: Do you agree with our proposed rule changes? Please offer alternatives if you think they would better achieve our intentions.

- **3.2.1 Charging Publication Dates – '***Our proposal is to align publication of Charges Schemes and Charging Arrangements "by 1 February" (except for small companies, for which the date would be "by 1 March"), and Wholesale Charges "by 13 January". The earlier date for Wholesale Charges is to give Retailers time to set retail charges by 1 February.'*
- **3.2.2 Publishing Statements of Significant Change – '***sometimes companies have no significant changes to report and would publish both the statement and the charges together if the rules permitted that. We think it is efficient and reasonable for them to be able to do so, and therefore propose to amend the rule to allow simultaneous publication at least three weeks before the deadline for publishing charge schemes.'*

Given that alignment, consistency, and transparency are some of the key fundamentals of business we feel it would be beneficial if all of the above were aligned to be published on the 1st of February. When charging rates are published there needs to be an opportunity to report on the variances (if any) between the forecast and actual rates to allow developers to understand where money is being spent and why rates may have increased accordingly. Transparency is key to understanding, and this report should also be published on the 1st of February along with schemes, arrangements, and wholesale costs.

- **3.2.3 Cost reflectivity – '***we propose to introduce in the English New Connection Rules a new rule that "Charging structures must reflect the long-run costs associated with providing the relevant service."'*

We feel that a clear definition of 'long run costs' and what this entails is needed to fully understand what is being proposed. As the House Building industry our members do not recognise this term and see the potential for water and sewerage companies to potentially apply this term out of context or inappropriately. However, we do agree that cost reflectivity is an important cornerstone to analysing service levels as well as the commercial variance between budgets and actual costs of works in both short and long term projects.

- **3.2.4 Consistent terminology –** *'We propose to require use of the terms in charging arrangements under our rules, depending upon the feedback from stakeholders in this consultation. We set out the draft terms for consultation in Appendix 2 and the proposed changes to the paragraphs 5 and 12 to require use of the terms in Charging Arrangements in Appendix 1.'*

HBF and our members strongly agree that consistent terminology is needed across all facets of water and sewerage industry regulation for example, we feel definition is required for the term 'long run costs' as mentioned in section 3 of Table 1. There is some confusion as to what this means, and for developers to decide whether they agree with it or not a definition of the term must be clarified, otherwise how can incumbents be expected to understand what this means if developers do not.

- **3.2.5 Using worked examples –** *'We now propose to formalise the requirement to use worked examples in the English New Connection Rules from April 2022. We will affect this through an amendment to paragraph 11 and a new information requirement A2. Details of these changes are in Appendix 1 and Appendix 3 of this consultation.'*

While there is general agreement to use worked examples, we still feel there is ambiguity within some of the terminology (i.e. 'parent main' requires definition), and room for diagrams to be included in the worked examples for better understanding. The parameters outlined in appendix 3, table 1 need to be increased for larger developments. Major developers would consider a 200 plot development to be small, and therefore this parameter would be better suited to the very top end of medium developments. 500 would be a more realistic boundary for large developments. In addition to this, costs associated with the various site-specific permutations would assist to understand the breakdown of costings and the range of prices involved here.

- **3.2.6 Where to issue rules on infrastructure charges –** *'we propose to amend the document which sets out the rest Charges Scheme Rules (to remove the relevant rules) and the document which sets out the English New Connection Rules (to include the relevant rules) and provide additional explanation and signposting to be clear which rules are issued under which powers of the Act.'*

HBF and its members have no further comments on these proposed amendments. Clarity on the origins and indeed a reason for these changes would be appreciated.

- **3.2.7 Income offset and connecting to existing mains –** *'Not all companies do provide income offset (we do not require it), but we consider it sensible to amend the definition to enable companies to apply it when new connections are made to existing mains if they choose to do so.'*

During the last consultation Frontier Economics recommended the removal of all income offsets, which would significantly increase costs on all developments. While the response to the previous consultation has not yet been published, our members feel that there should be a tangible acknowledgement by water and sewerage providers that the housebuilding industry creates and generates new business for water companies, as is experienced by developers currently in other areas of the utility industry through rebates, and the income offset is an important part of that recognition. Further clarity on definitions, why the income offset is changing, and the role of Environmental Credits would also be welcomed.

- **3.2.8 Network reinforcement and NAVs –** *'We propose to amend the definition of "network reinforcement" to include costs incurred by the incumbent when bulk service NAVs cause them.'*

We feel clarity is required for the definitions and the costs incurred by NAVs. There is concern that as proposed this will potentially disadvantage NAVs with additional costs incurred, which will potentially detract from the tangible progress made by OFWAT in creating a vibrant and competitive marketplace as well as increasing market share for NAVs. Having consulted with our membership, including the wider sector stakeholders, we are concerned that these costs will be passed straight through to the home building industry as consumers.

- **3.2.9 Quotes spanning different charging years –** *'We think it would promote clarity if we created a new rule that required companies to set out in their Charging Arrangements, the approach they take to providing quotes. We set out the wording of our proposed new rule in Appendix 1.'*

There is general agreement for the creation of this rule providing this is managed consistently and transparently across the whole sector to cover the varying approaches currently experienced by our members across the UK. The option to pay upfront to avoid the yearly cost increases should be implemented by all water companies, and these increases regularly impact development viability and cash flow. Again, clarity on costs and spending in the form of an annual report showing forecast against actual spend will be key for the house building industry.

Q2: Do you agree with our proposed changes in Appendices 1, 2 and 3?

Appendices 1 & 2 – No comments other than we welcome clarity on terms.

Appendix 3 – We feel in addition to the points mentioned above that it would be helpful to include clarity on likely costs for items such as the administration and supervision fees required in the worked examples to further aid understanding and transparency, and allow the regulator to benchmark, compare, and contrast costs across sector.

Q3: We seek your views on our clarification of the five-year rule. In particular, we would like to know of any potential implications for charges and customers' bills from companies following our interpretation.

Within the five year rule, an annual audit of accounts needs to be implemented so developers can see where money is being spent and to provide clarity on cost variations and over/underspending. This is particularly pertinent for the industry at a time where house building is battling with the increasing costs of nutrient mitigation schemes which we feel is a direct result of a lack of investment by water and sewerage companies in long term strategic investment. It is worth noting that as outlined in sections 37 & 94 of the Water Industry Act 1991, it is the duty of the water providers, not the developers, to implement procedures to regulate and provide sufficient mitigation measures to deal with future network reinforcement and environmental challenges within the jurisdiction of the water and sewerage company. A rationale of the methodology for calculating infrastructure charges would also be welcomed in the charging arrangements to aid clarity. As a whole, there is no opposition to this rule.

To conclude, while the home building industry does not strongly object to any of the proposed changes, we would be very welcoming of clarity on various terminologies, costs, and transparency for spending/budgeting in addition to the origins and the reasons for changes to charges rules moving forward.

Yours Sincerely

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