

September 2021

Variation of Leep Networks (Water) Limited appointment to include Land at 76–82 Oldham Street, Manchester

About this document

Variation of Leep Networks (Water) Limited's appointment to include Land at 76-82 Oldham Street, Manchester

On 22 February 2021, Ofwat [began a consultation](#) on a proposal to vary Leep Networks (Water) Limited (“**Leep Water**”)’s appointment to become the water and sewerage services provider for a development in United Utilities Water Limited (“**United Utilities**”)’s water supply area and sewerage services area called Land at 76-82 Oldham Street in Manchester (“**the Site**”).

The consultation ended on 22 March 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision.

The boundary of the Site has had a minor change since we consulted. The application's other details have not changed from the original submission and the amendment has not affected the conclusion of our assessment.

On 21 September 2021, we granted Leep 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, Leep Water applied to replace United Utilities 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

Leep 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**”). Leep Water will serve the Site by a bulk supply agreement and a bulk discharge agreement with United Utilities.

2.1 Unserved status of the Site

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

On 22 March 2021, United Utilities was provided with the revised boundary map of the Site. In an updated letter dated 7 April 2021 United Utilities confirmed that, in its view, the Site is unserved. This is because the only existing building on the Site had been demolished.

Taking into account the letter from United Utilities and the attached maps, we consider the Site to be unserved.

2.2 Financial viability of the proposal

We will only make an appointment 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 Leep 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’

Leep Water will match the charges to customers on the Site of United Utilities.

With regard to service levels, we have reviewed Leep Water’s Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of United Utilities. Based on this review, we are satisfied that customers will be

offered an appropriate level of service by Leep Water and that overall customers will be 'no worse off' being served by Leep Water instead of by Leep Water.

2.4 Effect of appointment on United Utilities' customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that United Utilities' 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 United Utilities. 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 United Utilities might have expected to receive in revenue from serving the Site directly, were it to serve the Site, with the revenues it might expect from the proposed arrangement with Leep Water.

In this case, we have calculated that if we grant the Site to Leep Water, we estimate there would be no increase on the annual water bills and a very small increase (£0.001) to the annual sewerage bills of existing United Utilities customers.

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 Site's developer, Kempton Homes Limited provided a letter dated 8 June 2020 to confirm that National Energy Direct Limited is the sub-contractor who are authorised to undertake the works associated with the statutory mains service connections for the development. National Energy Direct Limited confirmed in a letter dated 2 November 2020 that it gives Leep Water its support to provide water and sewerage services to the Site.

3. Responses received to the consultation

We received three responses to our consultation, from the Environment Agency, the Drinking Water Inspectorate (“DWI”) and the Consumer Council for Water (“CCW”). We considered these responses before making the decision to vary Leep Water's appointment. The DWI and the Environment Agency had no comments to make with regard to the consultation and did not have any objections. The points raised in CCW’s response are set out below.

On 21 April 2021, Leep Water provided new maps for the Site following a different red lined boundary received by United Utilities from the developer. We updated the statutory consultees of the change and requested feedback. We received a response from the Environment Agency confirming that it did not have any objections in regard to the boundary change.

3.1 CCW’s response

CCW states that in general it expects new appointment and variation appointees to match or ideally better the incumbent’s prices, service levels and service agreements.

CCW noted that Leep Water proposes to charge customers on the same basis as United Utilities. It is disappointed that there is not direct financial benefits to customers from having Leep Water as their water provider. However, as Leep Water generally matches or exceeds United Utilities’ service standards CCW supports the application overall. By way of example, it noted that Leep Water offer greater levels of compensation if it fails to meet the level of service it commits to.

However, CCW noted that Leep Water will not be able to offer its financially vulnerable customers a social tariff in the way that United Utilities does, although it will offer the standard Water Sure tariff. CCW states that given the relatively small customer base, it may be appropriate for Leep Water to tailor some of its services. CCW expects Leep Water to offer appropriate flexible support to any individual in financial difficulty, who would otherwise benefit from a social tariff which should not be at the expense of other customers. CCW would expect Leep Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW notes that Ofwat calculates that there will be a cost impact on the annual sewerage bills of the incumbent’s existing customers of £0.001 once the Site is built out. It notes that it is unclear whether there will be any significant benefits for these customers from the arrangement. CCW questions the value of the NAV regime if it cannot deliver benefits for customers.

Our response

One of our key policies when considering NAV applications is that customers should be no worse off if a new appointment and variation 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.

4. Conclusion

Having assessed Leep Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Leep Water's area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 22 September 2021.

Appendix 1: Site Maps

Water



Sewerage



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is a non-ministerial government department.
We regulate the water sector in England and Wales.**

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