

October 2021

Variation of Independent Water Networks Limited's appointment to include Port Loop Phases 3 &4 in Birmingham

About this document

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On 12 August 2021, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's (“**Independent Water Networks**”) appointment to become the water services provider for a development in Severn Trent Water Limited's (“**Severn Trent Water**”) water supply area called Port Loop Phases 3&4 in Birmingham (“**the Site**”).

The consultation ended on 11 September 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 27 September 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water 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 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, Independent Water Networks applied to replace Severn Trent Water to become the appointed water 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

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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

Independent Water Networks applied to be the water supply appointee for the Site under the unserved criterion set out in section 7(4)b of the Water Industry Act 1991 (“[WIA91](#)”).

Independent Water Networks will serve the Site by way of a bulk supply agreement with Severn Trent Water.

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.

Severn Trent Water has provided a letter, dated 27 July 2021, confirming that, in its view, the Site is unserved. The Site was a brownfield at the time of the application, however Independent Water Networks have very recently emailed us pictures as evidence, that any buildings that were previously on the Site, have now been demolished and cleared and there are no current connections on the Site for water or sewerage services. Having reviewed the facts of this Site and taking into account the letter from Severn Trent Water and photo evidence from Independent Water Networks, 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 Independent Water Networks 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’

Customers on the Site will be no worse off being served by Independent Water Networks rather than Severn Trent Water as Independent Water Networks proposes to match its customer charges on the Site to Severn Trent Water’s charges.

With regard to service levels, we have reviewed Independent Water Networks' Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of Severn Trent Water. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Independent Water Networks and that overall customers will be 'no worse off' being served by Independent Water Networks instead of by Severn Trent Water.

2.4 Effect of appointment on Severn Trent Water's customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Severn Trent 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. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way. We have assessed the potential magnitude of this impact by comparing how much Severn Trent Water 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 Independent Water Networks.

We estimate no annual increase on the water bills of existing Severn Trent Water customers if we grant this variation to Independent Water Networks. This is once the Site is fully built out. This estimate does not take into account the 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 Independent Water Networks would have no financial impact on customers' bills and could have potential benefits for customers.

2.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Urban Splash House Limited, said that it wanted Independent Water Networks to be the water company for the Site.

3. Responses received to the consultation

We received responses to our consultation from three organisations: the Consumer Council for Water (“**CCW**”), Drinking Water Inspectorate (“**DWI**”) and Environment Agency. We considered these responses before making the decision to vary Independent Water Networks’ appointment.

The DWI confirmed in an email of 12 August 2021, that it is content for the application to progress. The points raised in the responses from CCW and the Environment Agency are set out below.

3.1 Environment Agency

The Environment Agency sought clarification about the per capita consumption level that Independent Water Networks intended to operate on the Site, adding that Severn Trent Water's area has now been designated as a water stressed area. It noted that whilst Independent Water Networks states that it will implement 110 litres/person/day for water stressed areas, 125 litres/person/day had been given for this application. The Environment Agency said it would be useful to understand how Independent Water Networks decides whether to use 110 or 125.

The Environment Agency stated that it expects Independent Water Network to use 110 litres/person/day as per its own policy and not wait for the update to its Water Resources Management Plan. Independent Water Networks has confirmed that it will be using 110 litres/person/day for the per capita consumption for the Site. On 14 September 2021 the Environment Agency confirmed it was happy with this response and for the application to proceed.

3.2 CCW

CCW stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent’s prices, service levels and service guarantees. CCW noted that is it disappointed that there will be no direct financial benefits to customers being served by Independent Water Networks, instead of Severn Trent Water since Independent Water Networks will charge customers on the same basis as Severn Trent Water. However, CCW recognises that Independent Water Networks offers discounts to customers who are able to and opt to take up e-billing or direct debit payments.

CCW recognises that Independent Water Networks generally matches or exceeds Severn Trent Water’s service standards, and so overall CCW supports this application. For example,

Independent Water Networks offers higher compensation for low water pressure or for failing to read a meter once a year and it also offers a free leak repair service on customers external supply pipes.

However, CCW notes that Independent Water Networks will not be able to offer its financially vulnerable customers a social tariff in the way that Severn Trent Water can. However, CCW recognised that Independent Water Networks will offer the standard WaterSure tariff for qualifying customers, who find themselves in financial difficulty. CCW considered that given its relatively small size and customer base, it may be appropriate for Independent Water Networks to tailor some of the services that it provides. Until it can provide a formal social tariff, however, CCW expects Independent Water Networks to offer appropriate flexible support to any individual in financial difficulty, especially those who would otherwise benefit from a social tariff. It noted that this should not be at the expense of its other customers. CCW expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted our calculation that there will be no increase on the water bills of existing Severn Trent Water customers as a result of the variation. CCW stated that whilst it appreciates that this will not impact on bills, it considers that it is unclear if there will be any significant benefits arising from this arrangement for existing Severn Trent Water customers. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

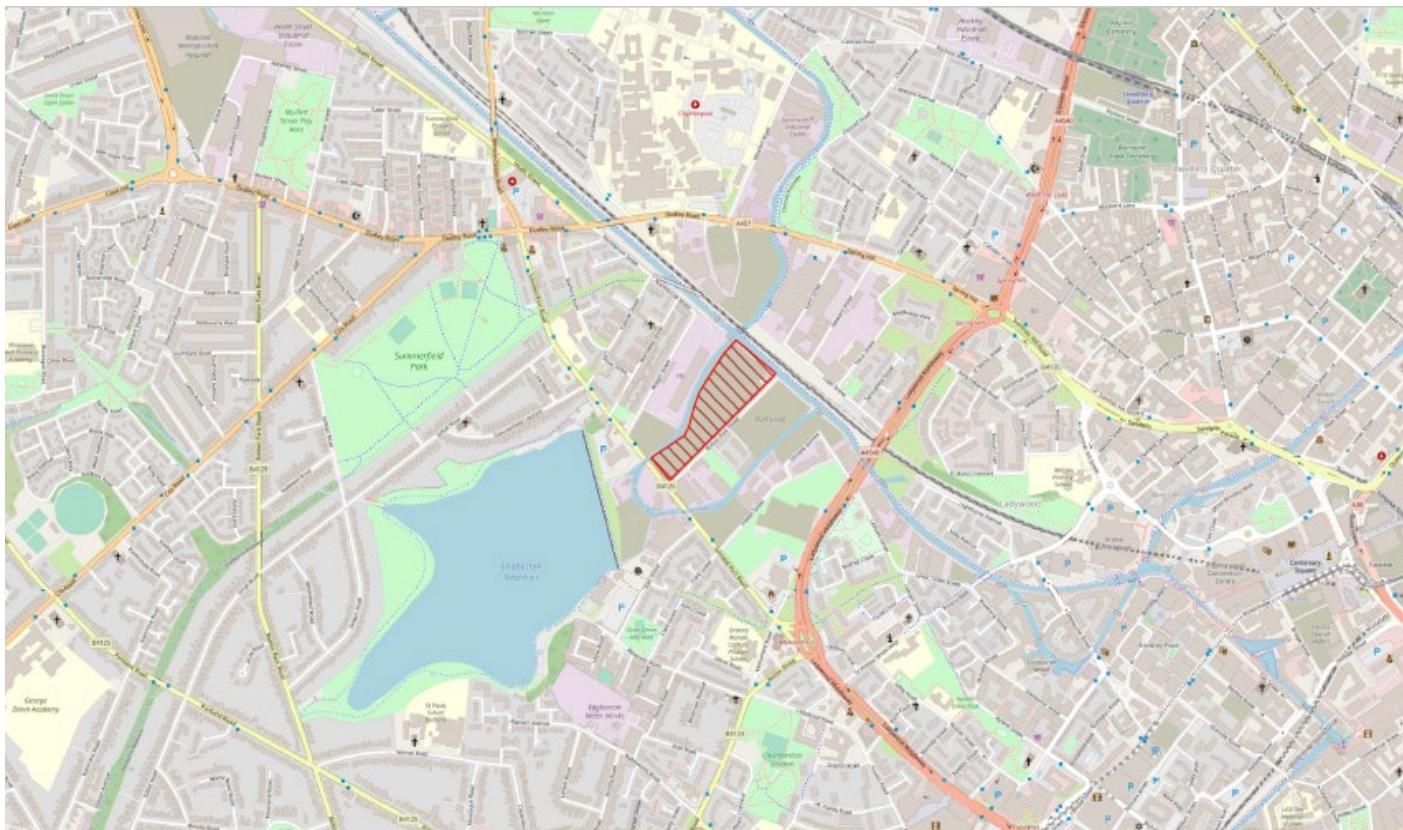
Our response

One of our key policies with respect to new appointments and variations is that customers should be no worse off if a 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 Independent Water Networks' application and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water services. This appointment became effective on 28 September 2021.

Appendix 1: Site Map - Water



PLAN REFERRED TO IN THE VARIATIONS ADDRESS: PORT LOOP PHASES 3&4, ROTTON PARK OF THE APPOINTMENTS OF INDEPENDENT STREET, BIRMINGHAM, B16 0AB

WATER NETWORKS LIMITED AND SEVERN OS GRID REFERENCE: 404874, 287215

TRENT WATER LIMITED, AS WATER

UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON...

SCALE: 1:12000 DRAWN BY: CS

27 September 2021 DATE: 16/03/2021

0 250 500 m

PORT LOOP PHASES 3&4 INSET WATER

MAP 2



Variation of Independent Water Networks Limited's appointment to include Port Loop Phases 3 &4 in
Birmingham

**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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