

November 2021

**Proposal to grant a variation of appointment to Leep Networks (Water) Limited – Spencer's Park, Hemel Hempstead**

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## 1. About this document

We propose granting a variation of appointment to Leep Networks (Water) Limited (“**Leep Water**”) as a water and sewerage company and varying the appointment of Affinity Water Limited (“**Affinity Water**”) as a water company and varying the appointment of Thames Water Utilities Limited (“**Thames Water**”) as a sewerage company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

## 2. The Site

Leep Water has applied for a variation of appointment to be able to provide water and sewerage services to a site called Spencer's Park, Hemel Hempstead, HP2 7DB (“**the Site**”). Site boundary maps can be viewed in section 8 of this document.

The Site is within the water and sewerage services area of Affinity Water and Thames Water.

The Site will comprise 600 residential properties and is expected to be fully built out in 2028.

### 3. The applicant

Leep Utilities Water Limited was formed in 2017 as a joint venture between Peel Utilities, part of the Peel Group, and Ancala Partners LLP, an infrastructure investment manager.

In 2019, Leep Utilities Water Limited (via Leep NAV Networks Limited, a newly incorporated subsidiary of group company Leep Utilities Water Limited) informed Ofwat that it proposed to directly acquire 100% of the shares in SSE Water (“**SSE**”) from SSE plc. The outcome of the acquisition, completed in June 2019 was that Leep Utilities Water Limited would own two NAV companies: Leep Water Networks Limited and SSE. Leep Water consolidated all of its existing appointments and variations into SSE, which has been renamed Leep Networks (Water) Limited.

On 1 October 2007, SSE obtained its first appointment as a water and sewerage undertaker for a housing development called the Portway, Old Sarum in Wessex Water’s area. Since then, Ofwat agreed to vary SSE’s area of appointment so that it served a further 34 sites for water and/or sewerage services.

Leep Water Networks Limited previously traded as Peel Water Networks Limited (“**Peel**”) until July 2017. On 13 February 2009 Peel obtained its only appointment as a water and sewerage undertaker for MediaCityUK in Salford Quays. On 25 October 2018 Leep Water Networks Limited obtained its only appointment as a water and sewerage undertaker for Liverpool International Business Park.

Now trading as Leep Networks (Water) Limited Ofwat has agreed to further variations of Leep Water's area of appointment, so that Leep Water now serves 49 sites for water and/or sewerage services. The register of new appointments and variations can be viewed [here](#).

In addition to this application, we are also considering applications from Leep Water to provide services for a further 28 sites.

## 4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Leep Water as a water and sewerage company by including the Site in its water supply and sewerage services area; and
- vary the appointment of Affinity Water as a water company by excluding the Site from its water supply area.
- vary the appointment of Thames Water as a sewerage company by excluding the Site from its sewerage services area.

By means of the above, Leep Water will become the water and sewerage services supplier for the Site.

## 5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation,<sup>1</sup> provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee as the provider of water and / or sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a 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 that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat 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.

We clarified these two policy principles in February 2011, and updated them more recently, when we published our new appointments and variations – [policy \(2015 and 2019\)](#) and [process \(2018\)](#) documents. In December 2015, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – i.e. customers of the existing provider and customers

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<sup>1</sup> The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.



## 6. The application

Leep Water has applied to be the water and sewerage company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

### 6.1 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.

The incumbents have provided letters, dated 16 September 2021 and 3 August 2021, confirming that, in their view, the Site is unserved. This is a greenfield site. A desk survey shows that this is greenfield land and there are no existing properties within the Site boundary.

Having reviewed the facts of this Site and taking into account the letters from the incumbents we consider the Site to be unserved.

### 6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (“**Business Customers**”) in England and Wales are able to choose their supplier.<sup>2</sup>

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

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<sup>2</sup> The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 Ml where the relevant area is wholly or mainly in Wales) have been able to effectively switch suppliers of water and/or sewerage since 1 April 2017.

## 6.3 Price

Customers on the Site will be no worse off as Leep Water proposes to match the charges to customers on the Site to those of both Affinity Water and Thames Water.

## 6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Leep Water's proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Leep Water's proposed Customer Code of Practice than they would be if Affinity Water or Thames Water were to be the customers' water and sewerage services suppliers.

## 6.5 Site owner choice

Leep Water has the consent of the Site developer, Countryside Properties (UK) Limited, to become the water and sewerage services provider.

## 6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application<sup>3</sup>.

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<sup>3</sup> The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

## 6.7 Incumbent's existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Affinity Water's and Thames 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 Affinity Water and Thames 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 Leep Water.

We estimate a potential £0.02 annual increase on the water bills of existing Affinity Water and no increase on the sewerage bills of Thames Water customers if we grant this variation to Leep Water. 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 Leep Water would have a very small financial impact on customers' bills and could have potential benefits for customers.

## 6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

In 2020, Leep Water requested that we perform a risk assessment to consider if it would be appropriate to consider the financial position of Leep Water as a whole and perform a company assessment rather than a detailed site-based assessment in line with our policy.

Leep Water submitted detailed financial projections and further supporting information to enable us to consider if it has demonstrated it is sufficiently low risk to be considered for a company-based assessment.

Following our risk assessment, a decision was made in March 2021 to move to a company-based assessment of financial viability for Leep Water rather than the site-by-site assessment of each individual application, provided:

- Leep Water remains within its existing group company structure, with continuing access to intercompany loans and financial security provision;
- any NAV applications involving an associated company of Leep Water, the appointed business, will require site-by-site financial viability assessments; and
- applications for large sites with low expected profitability will be subject to a full, site-by-site financial assessment.

We are satisfied that the application does not breach any of the conditions set out.

We have considered the financial position of Leep Water in relation to providing services to the Site. The current level of financial security that Leep Water has in place meets our requirements and we are satisfied the company demonstrates sufficient financial viability. On this basis, we are currently satisfied that Leep Water would be able to finance its functions if the variation is granted.

## 7. Conclusion and next steps

In assessing Leep Water's application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Leep Water would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of Affinity Water and Thames Water.

We are currently minded to grant the variation of appointment under the unserved criterion. We are consulting on our proposal to do so.

### Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Emma Duffey at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at [Licensing@ofwat.gov.uk](mailto:Licensing@ofwat.gov.uk)

Representations must be received by Ofwat no later than 17.00 hours on 27 December 2021. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

## Site maps

Water:

Spencer's Park, Cherry Tree Lane, HP2 7DB  
E:508283, N:209212





**Sewerage:**

Spencer's Park, Cherry Tree Lane, HP2 7DB  
E:508283, N:209212



**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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