

January 2022

Variation of Leep Networks (Water) Limited's appointment to include Hallgate Lane, Pilsley

About this document

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On 23 December 2021, Ofwat began a [consultation on a proposal](#) to vary Leep Networks (Water) Limited's ("**Leep Water**") appointment to become the water provider for a development in Severn Trent Water Limited's ("**Severn Trent**") water supply area called Hallgate Lane, Pilsley, Chesterfield in Derbyshire ("**the Site**").

The consultation ended on 24 January 2022. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 26 January 2022, we granted Leep Water 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 and/or 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 Severn Trent 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 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 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 way of a bulk supply agreement with Severn Trent.

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.

The Site is greenfield. Aerial photographs show that there are no buildings within the perimeter of the Site. Severn Trent has provided a letter, dated 3 August 2021, confirming that the Site is unserved.

We have reviewed the facts of this Site and have taken into account the letter from Severn Trent. We are satisfied that the Site meets the unserved criterion.

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 proposes to charge customers on the Site charges that are equivalent to the charges of Severn Trent.

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 Severn Trent. 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 Severn Trent.

2.4 Effect of appointment on Severn Trent's customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that Severn Trent'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 on customers of Severn Trent. 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 Severn Trent 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, there will be no impact on the annual water bills of Severn Trent's existing 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 developer, Caddick Construction, said that it wanted Leep Water to be the water company for the Site.

3. Responses received to the consultation

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

The DWI had no comments to make with regard to this consultation and did not have any objections. The points raised in the responses from CCW and the Environment Agency are set out below.

3.1 The Environment Agency

The Environment Agency queried Leep Water's leakage target and its forecast per capita consumption (“**PCC**”) which, at 123 litres per household per day (“**l/h/d**”) is higher than the 110 l/h/d expected in a water-stressed area.

Leep Water explained that leakage is set at 3% in its models but its networks are new and leakage is expected to be lower than this. It stated that its PCC is not a target but is an estimate based on assumed occupancy and annual consumption. All properties are metered and a PCC below 110 l/h/d is assumed provided the developer commits to installing low-consumption fittings.

The Environment Agency confirmed that it accepts this response and is content for the application to progress.

3.2 CCW

CCW states that in general it expects applicants for a new appointment and/or variation (“**NAV**”) to match or, ideally, better the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there is no direct financial benefit to customers from having Leep Water as their provider of water services, as Leep Water intends to match Severn Trent's charges. However, CCW considers that Leep Water's service levels generally match or exceed those of Severn Trent, so overall CCW supports the application. Where Leep Water exceeds Severn Trent's standards it does so by offering greater levels of compensation if it fails to meet the level of service it commits to.

CCW notes that, due to the relatively small size of its customer base, Leep Water does not currently offer a social tariff to financially vulnerable customers in the way the incumbent does, but will offer the standard WaterSure tariff for qualifying customers. CCW states that it is appropriate for Leep Water to tailor some of the services that it provides until it can provide a formal Social Tariff. CCW sets out its expectation that Leep Water would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff and that this should not be at the expense of its other customers. CCW considers that by matching the incumbent's charges Leep Water already benefits from the cross-subsidy Severn Trent's customers pay to support its social tariff.

CCW notes our conclusion that, as a result of the variation, Severn Trent's existing customers would see no increase in their annual water bills. CCW appreciates this but states that it is unclear as to whether there will be any significant benefits arising from this arrangement for the incumbent's customers. CCW questions the value of the NAV regime if it cannot deliver benefits to all customers.

Our response

One of our key policies with considering NAV applications is that customers should be no worse off if a NAV 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.

Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social tariff, it should ensure customers will be no worse off.

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 services. This appointment became effective on 27 January 2022.

Appendix 1: Site Map

Hallgate Lane, Pilsley S45 8HL

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

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