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By email

Nicola Shaw
Chief Executive
Yorkshire Water Services Limited
Western House
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12 October 2022

Dear Nicola

Time limited consent for loans from Yorkshire Water Services to a connected company

Yorkshire Water Services Limited (“**Yorkshire Water**”) is the holder of an instrument of appointment granted under sections 11 and 14 of the Water Act 1989 (the “Appointment”). Words and expressions defined in the Appointment shall have the same meaning in this letter unless the context otherwise requires.

In a letter dated 12 October 2022 (the "Consent Request Letter", included as Appendix 1 to this letter), Yorkshire Water has requested our consent in relation to the provision of loans to an Associated Company pursuant to paragraph 21.2 of Condition P of its Appointment.

The purpose of this letter is to record our consent to the specific request made by Yorkshire Water and to set out any conditions of that consent.

In our consideration of the request for consent, we have relied on the information and assurances contained in the Consent Request Letter and information about the loans provided to us by Yorkshire Water, including in its response to a request for information about the loans dated 3 May 2022. The consent provided in this letter is granted on the basis of the information provided by Yorkshire Water and our assessment of the specific circumstances of Yorkshire Water at the time. Accordingly, the consent provided should not be taken as a statement of Ofwat policy as to the provision of consent in other circumstances. Such requests will be considered individually in accordance with our statutory duties and taking

account of our published guidance¹.

Background

In 2008 and 2009 Ofwat consented to Yorkshire Water making two loans to an Associated Company.

The first loan was made to Saltaire Water Limited and subsequently novated to another Associated Company, Kelda Holdco Limited. This loan was in respect of an amount that reflected what Yorkshire Water considered to be the fair value of inflation linked swaps at the date of novation from Saltaire Water Limited to Yorkshire Water (the swaps were novated in 2008 at a mark-to-market loss of £308.9m, and the corresponding loan novated from Saltaire Water Limited to Kelda Holdco Limited). This loan is reported as being repayable on demand, however, a repayment profile is in place for this loan of £8.1m per annum. As of 31 March 2022, £109.7m of this loan had been repaid, leaving an outstanding balance of £199.2m.

The second loan was an upstream loan comprising of cash loan advances totaling £1,009m that Yorkshire Water made to Kelda Holdco Ltd between 2010 and 2012, which enabled Kelda Holdco to refinance external debt. Since the cash loans were advanced, c£267m has been repaid (c.26%). As of 31 March 2021, the outstanding balance of this loan was £742.1m.

Both loans are unsecured and bear interest at six-month LIBOR plus 4.25%. There is no contracted repayment date for either of the loans.

In 2014-15 the corporate group within which Yorkshire Water sits was restructured, and the rights and obligations under both loans were novated up to Kelda Eurobond Co Limited (Kelda Eurobond), another Associated Company in the group structure. Kelda Holdco Limited was subsequently dissolved. This novation to a different entity effectively created new loans. Yorkshire Water did not seek, and Ofwat did not provide, consent for the novated loans at the time. As a result, Yorkshire Water was in breach of paragraph 21.1 of Condition P of its Appointment.

At 31 March 2022, the combined balance of the two loans to Kelda Eurobond was £941.3m.

Ofwat considered that Yorkshire Water did not have the necessary consents in place for these loans. On 12 October 2022 the company provided undertakings under section 19 of the Water Industry Act 1991 to deliver a number of commitments. Amongst other things, these include repaying the loans in accordance with an agreed repayment plan, as it would not be possible

¹ [Guidance on Ofwat's approach to granting derogations from the regulatory ring-fencing framework](#), February 2020

for repayment to be made immediately. Ofwat's consent is therefore required for the period during which the repayment plan and wider undertakings are in place.

Nature of consents sought

Yorkshire Water has requested a time limited consent for the provision of two loans from Yorkshire Water to Kelda Eurobond, a parent company. As reflected in Yorkshire Water's section 19 undertaking, the consent is required for the duration of the agreed repayment plan on the terms set out in the Consent Request Letter (described below) and on the basis that Yorkshire Water remains in compliance with the section 19 undertakings it has provided.

The terms of these loans state that they are repayable on demand, however Yorkshire Water has explained that it is not possible for repayment to be made immediately. Instead, the company has requested consent on the basis of a repayment plan whereby at least £300 million will be repaid by 30 June 2023, at least a further £200 million will be repaid by 31 March 2025, and the loans will be repaid in full by 31 March 2027.

The provision of a loans to an Associated Company are prohibited without the consent of Ofwat under paragraph 21.2 of Condition P of the Appointment.

Ofwat's Consent

In accordance with, and for the purposes of paragraph 21.2 of Condition P of the Appointment and subject to the condition set out below, Ofwat consents to the provision of the loans to Kelda Eurobond Co Limited set out above. As noted above, in making our decision we have relied on the information provided by Yorkshire Water in its Consent Request Letter and in additional discussions and correspondence with the company.

This consent is subject to the following conditions:

- a. That the loans will be repaid no later than under the repayment plan set out in the Consent Request Letter.
- b. At least £300m of the balance of the loans will be repaid by 30 June 2023;
- c. At least a further £200m of the balance of the loans will be repaid by 31 March 2025.
- d. The loans will be repaid in full by 31 March 2027.
- e. Any dividends paid by Yorkshire Water to support the repayment of the loans will take account of the operational performance of the company and delivery for customers and the environment.
- f. The company complies with the undertakings provided to Ofwat dated 12 October 2022.

In addition to the above conditions, Yorkshire Water will provide a written update to Ofwat by April 2023, April 2025 and April 2027 in respect of the status of the repayment of the loans.

General Provisions relating to Ofwat's Consent

The consent described above shall take effect from the date of this letter.

Reasons for Consent

Ofwat considers that the consent provided above should be granted because from the information provided, Ofwat is satisfied that the granting of consent is consistent with its statutory duties.

This is on the basis that, as set out in the Consent Request Letter:

- The loans to Kelda Eurobond have been in place since 2014-15.
- The directors of Yorkshire Water have agreed that it is no longer appropriate for the loans to remain in place and have agreed with Kelda Eurobond a repayment plan setting out the period over which the loans will be repaid.
- The loans will be repaid in full no later than 31 March 2027.

We trust that you will keep us advised of any material changes to the matters or proposals set out in your letter including, without limitation, those which relate specifically to the consent requested and any material change to the basis on which the consent has been granted as set out above.

Yours sincerely,

David Black
Chief Executive

Appendix 1 – Consent Request Letter from Yorkshire Water