



Principal, Company Engagement, PR24
Ofwat

By email

13 October 2023

Dear [REDACTED],

[Proposal to amend the definition of Excluded Charges in Condition B of water company licences](#)

We welcome the opportunity to comment on your proposed modification to the definition of Excluded Charges in Condition B as set out in your consultation document published on 24 August 2023.

We have set out below our detailed response to each section of the consultation.

[Water developer services \(English water companies only\)](#)

We have no objections to the proposed wording regarding the exclusions that relate to new water mains, new water connections and adoption of water infrastructure.

We do however believe that it would be helpful to also have a specific exclusion for charges raised under section 66D agreements with water supply licensees, as it makes it explicit that these agreements are included in the exclusion which could otherwise be ambiguous.

[Wastewater developer services](#)

We have no objections to the proposed wording regarding the exclusions that relate to new public sewers and lateral drains, communications with public sewers, adoption of wastewater infrastructure, works agreed with owners/occupiers and wastewater diversions.

It would however be useful if Ofwat could clarify whether section 106 consent fees are also covered by this exclusion. If this is the case, this could be specifically added to the proposed wording.

We also believe that it would be helpful to have a specific exclusion for charges raised under section 117E agreements with sewerage licensees, as it makes it explicit that these agreements are included in the exclusion which could otherwise be ambiguous.

[Proposed inclusion of water service diversions within the water network price control](#)

As expressed in previous consultation responses, we disagree that section 185 diversions are not contested. We allow water diversion work to be carried out on the same basis as we allow new mains to be laid by accredited SLPs (including NRSWA and HS2 diversions). We believe that this promotes competition and self-lay options for developers and ask that Ofwat reconsiders whether section 185 diversions should be inside the price control.

Similarly, we request that Ofwat reconsiders its plans to bring non-section 185 diversions inside the price control. We believe that the conclusions from the PR19 consultation in this regard are still valid. These activities are too unpredictable, and we are not able to forecast activity levels with sufficient accuracy to warrant bringing them inside the price control.

This is evidenced by the recent announcements regarding the HS2 programme. Delays to the project's north-west section were announced in March 2023 followed by the cancellation of the entire northern section announced in October 2023. There is also ongoing uncertainty around whether the project will extend all the way to Euston in central London or end at Old Oak Common in west London.

If such activity is included in the price control, any shortfalls in revenue would become the burden of end-user customers, with the true-up mechanism not correcting the situation until the following AMP.

We do not agree that end-user customers should be exposed to price risk from the uncertainty of these schemes which sit outside of the Water Industry Act 1991. The cost recovery principles are already set out under the New Roads and Street Works Act 1991, and the High-Speed Rail (London – West Midlands) Act 2017.

In support of the views expressed above, our most recent view for AMP7 as a whole of water infrastructure diversions revenue generated by developer-led activity is approximately split as 60% being delivered by Thames Water and 40% by Self-Lay Providers. Hence, water infrastructure diversions are very much a contested service.

[Governance over our response](#)

This response has been provided following discussion with our Executive but, due to the timing of the consultation, we have not been able to secure Board endorsement at this stage. This will follow as part of our governance in relation to Ofwat's final modification notice when this is formally issued under section 13 of the Water Industry Act 1991.

I hope that this response is helpful in your consideration of the options available to modify Condition B. If you would like to discuss any aspects of this letter further, please do not hesitate to contact me.

Yours faithfully



Interim Strategy and Regulatory Affairs Director