

Proposal to grant a variation of appointment to Leep Networks (Water) Limited – Langford Bridge Farm, Newton Abbott

	Details
Applicant	Leep Networks (Water) Limited (“ Leep Water ”)
Site Details	Langford Bridge Farm, Newton Abbott, Devon (“ the Site ”)
Services	Water and Sewerage
Current water & sewerage appointee	South West Water Limited (“ South West Water ”)
Proposed supply arrangements	Bulk supply and discharge agreements with South West Water
Criterion	Unserved
Household Customer	437
Business Customers	2
Developer	Persimmon Homes (South West) Limited
Estimated Site completion date	2028
Summary of consultation	A statutory consultation made under section 8(3) of the Water Industry Act 1991 (“ WIA91 ”) to grant Leep Water a variation to its appointment as a water and sewerage company. To also vary the appointment of South West Water as a water and sewerage company. Consequently, Leep Water will become the water and sewerage company for the Site.
Deadline for submissions	<p>Representations or objections to this consultation should be sent by email to Licensing@ofwat.gov.uk or in writing and sent to the NAV licensing team, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA.</p> <p>Responses must be received by Ofwat no later than 17.00 hours on 18 October 2023.</p>
<p>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/.</p> <p>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.</p>	

1. Our assessment of this application

Our approach

The new appointment and variation mechanism set out in primary legislation¹, 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.

You can find further details of our approach to assessing applications for New Appointments and Variations ("NAVs") [here](#).

Unserviced 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 and aerial photos confirm there are no existing properties within the Site boundary. South West Water provided letters, dated 11 August 2023, confirming that, in its view, the Site is unserved.

Given the information provided by Leep Water and South West Water, we are satisfied that the Site may be considered unserved.

Price

Leep Water proposes to match the charges to customers on the Site to those of South West Water, it will not offer a discount.

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

¹ 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.

Water's proposed Customer Code of Practice than they would be if South West Water were to be the customers' water and sewerage company.

Stakeholder engagement

We take the view of the Environment Agency², the Drinking Water Inspectorate ("**DWI**"), and the Consumer Council for Water ("**CCW**") into account before progressing to formal consultation on an application.

The Environment Agency informed us that it is content for us to consult on this application.

The DWI is satisfied that Leep Water understands the obligations under the Water Industry Act 1991 (as amended), the Water Supply (Water Quality) Regulations 2016 (as amended) and the Water Industry (Suppliers' Information) Direction 2021. The DWI therefore raises no comments or objections to Ofwat proceeding to consultation and decision for applications submitted by Leep Water.

As part of the application process Ofwat has engaged with CCW. CCW's position is that NAVs should bring benefits to customers on the proposed NAV site. CCW expects NAVs to provide consumers with prices, levels of service or service guarantees that match or, ideally, better those of incumbent water and/or sewerage companies. CCW has stated that it is satisfied that Leep Water as an established New Appointee, offers customers on its NAV sites prices and levels of service which match or better those offered by the incumbent water and/or sewerage companies which would otherwise serve the site. CCW agrees with Ofwat's assessment that customers on the site will be no worse off if served by Leep Water and so, overall, supports the proposed variation of appointment.

CCW recognises that due to the small size of Leep Water's customer base, it does not currently offer its financially vulnerable customers a social tariff in the way that the incumbent companies do but does offer the standard WaterSure tariff for qualifying customers. CCW considers that it is appropriate for Leep Water to tailor the services it provides, until it can offer a formal social tariff, ensuring customers are provided with appropriate flexible support where needed. CCW is pleased to acknowledge Leep Water's commitment set out in its Household Charges Scheme 2023/24, that where a customer requests that Leep Water considers their particular financial circumstances, it will seek to match the level of service provide by the relevant incumbent company.

CCW notes that it is important for the NAV regime to have wider benefits for all customers, including those of incumbents, particularly as the number of sites in each incumbent area increases. CCW expects NAV companies and incumbent companies to work together to

² The Environment Agency as well as 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.

ensure the arrangements on the site and bulk charges are reflective of the impact on an incumbent's existing customers.

Impact on existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that South West Water's existing customer base may face.

The incumbent's bulk charges to the NAV should closely relate to the services the NAV provides to its end customers. We published our final guidance on bulk charges in January 2021 ([Bulk charges for new appointees – guidance on our approach and expectations](#)), following a consultation on our approach and a consultation on a draft version of our guidance in November 2020.

Our approach to regulating bulk charges was informed by a report we commissioned to explore whether incumbents' practices when setting bulk charges for NAVs were driving benefits for customers, the environment and wider society. The report confirmed that incumbents were setting bulk charges with reference to our May 2018 guidance, [a new approach to bulk charges for new appointees](#). This guidance introduced the principle that bulk charges for new appointees should be set to reflect the relevant wholesale tariff(s) and deduct costs that the incumbent would no longer incur if a new appointee supplied the site instead.

Therefore, if the incumbent's bulk charges are set at the correct level and adjusted to ensure that they remain cost reflective, we consider that granting this variation to Leep Water would have no financial impact on the bills of the incumbent's customers and could have potential benefits for customers. There are also potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

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.

2. Conclusion and next steps

In assessing Leep Water's application, we have considered the general benefits of new appointments and variations. 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 South West Water.

We are currently minded to grant the variation under the unserved criterion. Subject to considering 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.

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Sewerage

