

Proposal to grant a variation of appointment to Icosa Water Services Limited to include the Site, Blackfriars, Battle

|  | Details  |
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| <b>Applicant</b>   | Icosa Water Services Limited (“ <b>Icosa Water</b> ”)  |
| <b>Site Details</b>  | Blackfriars, Battle, East Sussex (“ <b>the Site</b> ”)   |
| <b>Services</b>  | Sewerage only  |
| <b>Current sewerage appointee</b>  | Southern Water Services Limited (“ <b>Southern Water</b> ”)  |
| <b>Proposed supply arrangements</b>  | Bulk discharge agreement with Southern Water   |
| <b>Criterion</b>   | Unserved   |
| <b>Household Customer</b>  | 200  |
| <b>Business Customers</b>  | 0  |
| <b>Developer</b>   | Rother District Council  |
| <b>Estimated Site completion date</b>  | August 2024  |
| <b>Summary of consultation</b>   | <p>A statutory consultation made under section 8(3) of the Water Industry Act 1991 (“<b>WIA91</b>”) to grant Icosa Water a variation to its appointment as a sewerage company.</p> <p>To also vary the appointment of Southern Water as a sewerage company.</p> <p>Consequently, Icosa Water will become the sewerage company for the Site.</p>                    |
| <b>Deadline for submissions</b>  | <p>Representations or objections to this consultation should be sent by email to <a href="mailto:Licensing@ofwat.gov.uk">Licensing@ofwat.gov.uk</a> 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 <b>17.00</b> hours on <b>6 June 2024</b>.</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 <a href="http://www.ofwat.gov.uk/foi/">http://www.ofwat.gov.uk/foi/</a>.</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 <a href="#">Publication Scheme</a>.</p> |  |

# 1. Our assessment of this application

## Our approach

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.

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

## The unserved status of the Site

Icosa Water is applying for a variation based on the unserved criterion. To qualify under the unserved criterion, an applicant must show that at the time the variation is made, none of the premises in the proposed area of the variation is served by the existing appointee.

Southern Water has provided a letter dated 19 July 2023, confirming that, in its view, the Site is unserved.

The Site is greenfield. Satellite images show there are two properties in the south east area within the Site boundary. Icosa Water has confirmed that the sheds were demolished and removed from the Site in early July 2023.

Having reviewed the facts of this Site provided by Icosa Water and taking into account the letter from Southern Water, we consider the Site to be unserved.

## Price

Icosa Water proposes to match the charges to customers on the Site to those of Southern Water.

## Levels of service

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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.

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Icosa 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 Icosa Water's proposed Customer Code of Practice than they would be if Southern Water were to be the customers' sewerage company.

## Stakeholder engagement

We take the view of the Environment Agency<sup>2</sup>, 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 Icosa Water understand 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 Icosa Water.

As part of the application process Ofwat has engaged with CCW. CCW's position is that new appointments and variations (NAV's) should bring benefits to customers on the proposed NAV site. CCW expects New Appointees 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 Icosa 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 Icosa Water and so, overall, supports the proposed variation of appointment.

CCW recognises that due to the small size of Icosa 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 Icosa Water to tailor the services it

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<sup>2</sup> 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.

provides, until it can offer a formal social tariff, ensuring customers are provided with appropriate flexible support where needed.

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 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 Southern 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 Icosa 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.

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We have considered the revenues and costs of the Site relating to the provision of sewerage services should the relevant variation be granted.

- Following our review, we are satisfied that the Site demonstrates sufficient financial viability under our standard assessment.
- We are satisfied that the financial security Icosa Water has in place meets our minimum requirements.

On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are currently satisfied that Icosa Water would be able to finance its functions if the variation is granted.

## 2. Conclusion and next steps

In assessing Icosa 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 Icosa 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 Southern 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.

### 3. Site map – Sewerage

