

**WATER SERVICES REGULATION AUTHORITY
WATER INDUSTRY ACT 1991, SECTION 13(1)**

**Modification of the Conditions of Appointment of
Affinity Water Limited**

**Made on 26 February 2014
Coming into effect on 1 March 2014**

The Water Services Regulation Authority, in exercise of the power conferred on it by section 13(1) of the Water Industry Act 1991 (the "Act"), after giving notice as required by section 13(2) of the Act, hereby makes the modifications described in the Schedule attached hereto to the Conditions of the Appointment of Affinity Water Limited (the "Appointee") as a water undertaker under Chapter I of Part II of the Act, the Appointee having consented to these modifications.

**Signed for and on behalf of the
Water Services Regulation Authority**

**Keith Mason
Senior Director of Finance and Networks**

Schedule

Condition N is deleted and replaced with the following text:

“Condition N: Fees

1 Interpretation and Construction

In this Condition a "**Periodic Review Year**" means the Charging Year starting on 1 April immediately preceding the start of a Review Charging Year.

2 Fees

The Appointee shall render the following payments to the Secretary of State at the times stated:

- (1) [Not used];
- (2) at the start of each Charging Year an amount equal to the costs estimated by the Water Services Regulation Authority (in consultation with the Competition Commission) as having been incurred in the preceding Charging Year by the Competition Commission following:
 - (a) references under section 14 of the Water Industry Act 1991 which mention the Appointment only; and
 - (b) references under Condition B or Condition C;
- (3) at the start of each Charging Year an amount, which shall represent a fair proportion, to be determined each year by the Water Services Regulation Authority according to a method which has been disclosed in writing to the Appointee, of the costs estimated by the Water Services Regulation Authority (in consultation with the Competition Commission) as having been incurred in the preceding Charging Year by the Competition Commission following any reference under section 14 of the Water Industry Act 1991 which mentions both the Appointment and also any other appointment made under Chapter I of Part II of the Water Industry Act 1991;

- (4) within thirty days of the date on which the Water Services Regulation Authority notifies the Appointee of the amount payable under this sub-paragraph, an amount equal to the costs determined by the Water Services Regulation Authority as having been or likely to be incurred by it in respect of any reference by the Appointee under paragraph 13 of Condition B and any determination by the Water Services Regulation Authority under paragraph 14 of Condition B made in the Charging Year in which the Water Services Regulation Authority's notification for the purposes of this sub-paragraph is given;
- (5) at the start of each Charging Year a renewal fee, which shall represent a fair proportion, to be determined each year by the Water Services Regulation Authority according to a method which has been disclosed in writing to the Appointee, of the costs estimated by the Water Services Regulation Authority as being likely to be incurred in that Charging Year by it in the regulation and enforcement of appointments made under Chapter I of Part II of the Water Industry Act 1991 (including the Appointment) and in the carrying out of its other functions under the Water Industry Act 1991;
- (6) on 1 April of the first Charging Year after the announcement by the Water Services Regulation Authority of its intention to carry out a Periodic Review, and at the start of each Charging Year up to but not including the Periodic Review Year, an additional fee, which shall represent a fair proportion, to be determined each year by the Water Services Regulation Authority according to a method which has been disclosed in writing to the Appointee, of additional costs estimated by the Water Services Regulation Authority as being likely to be incurred in that Charging Year by it in the preparation for or the carrying out of a Periodic Review, over and above the costs estimated by the Water Services Regulation Authority as being likely to be incurred in that Charging Year under paragraph 2(5) above;
- (7) where the Water Services Regulation Authority so determines, on 1 January in any year, a special fee, which shall represent a fair proportion, to be determined each year by the Water Services Regulation Authority according to

a method which has been disclosed in writing to the Appointee, of the amount, if any, by which the aggregate of the costs estimated by the Water Services Regulation Authority to have been already incurred in that Charging Year and to be incurred in the remainder of that Charging Year by the Water Services Regulation Authority in the regulation and enforcement of appointments made under Chapter I of Part II of the Water Industry Act 1991 (including the Appointment) and in the carrying out of its other functions under the Water Industry Act 1991 exceeds the aggregate of:

- (a) all renewal and additional fees payable at the start of that Charging Year under the Appointment and all other appointments made under the said Chapter I; and
- (b) all amounts (if any) payable in that Charging Year under sub-paragraph 2(4) and the equivalent provisions in other appointments made under the said Chapter I in respect of references and determinations of the kind described in sub-paragraph 2(4);

subject to it apportioning the special fee, according to the nature of the costs intended to be covered by it, between the renewal fee, the additional fee and the amounts referred to in paragraph (b);

- (8) [Not used]; and
- (9) within 30 days of the date on which the Water Services Regulation Authority notifies the Appointee of the amount payable under this sub-paragraph, as derived from the following formula:

$$J = G \times \frac{t}{T}$$

Where

J is the amount payable under this sub-paragraph

G is for each Charging Year the sum of £5.7 million increased by the percentage increase in the Retail Prices Index between that published for November 2005 and that published for November in the Prior Year;

t is equal to the turnover of the Appointed Business as shown in the accounting statements prepared by the Appointee under paragraph 4 of Condition F for the financial year ending 12 months before the start of the Charging Year in which the payment under this sub-paragraph is payable;

T is equal to the aggregate of the turnover of the Appointed Business of all of the companies holding an Appointment under Chapter I of Part II of the Water Industry Act 1991 as shown in their accounting statements prepared under paragraph 4 of Condition F for the financial year ending 12 months before the start of the Charging Year in which the payment under this sub-paragraph is payable

PROVIDED THAT if, in respect of any Charging Year, the Secretary of State issues to the Water Services Regulation Authority any direction or directions under section 37(8) of the Water Act 2003, which requires or require it to recover under this Condition any amount or amounts greater than G, the amount of that excess shall also be recoverable under this sub-paragraph (9).

3 Limits on renewal fee, special fee and additional fee applied to Ofwat

3.1 The aggregate of the renewal fee payable in respect of any Charging Year (other than a Periodic Review Year) and part of any special fee apportioned to the renewal fee payable in the same Charging Year shall not exceed X, where X shall be calculated in any year by the equation:

$$X = S \times \frac{t}{T}$$

Where the figures in the equation are defined as follows:

"S" is equal to the figure £11.9 million, increased by the percentage increase in the Retail Prices Index between that published for the month of November 1998 and that

published for the month of November immediately preceding the start of the Charging Year in which that renewal fee and special fee are payable;

"t" is equal to the turnover of the Appointed Business as shown in the accounting statements prepared by the Appointee under paragraph 4 of Condition F for the financial year ending twelve months before the start of the Charging Year in which that renewal fee and special fee are payable;

"T" is equal to the aggregate of the turnover of the Appointed Business of all of the Appointees as shown in their accounting statements prepared under paragraph 4 of Condition F for the financial year ending twelve months before the start of the Charging Year in which that renewal fee and special fee are payable.

3.2 The aggregate of the renewal fee and any special fee payable in any Periodic Review Year and of the additional fees payable under paragraph 2(6), in the years immediately preceding that Periodic Review Year, shall not exceed X derived from sub-paragraph 3.1 plus a figure of 0.3, calculated as the sum of the percentages which each such fee represents of the turnover of the Appointed Business, as shown in the accounting statements prepared by the Appointee under paragraph 4 of Condition F, as an average over the five years concluding with the previous Periodic Review Year.

3.3 Where:

- (1) [Not Used];
- (2) a Periodic Review falls to be carried out under paragraph 8 of Condition B; or
- (3) [Not Used]

the Water Services Regulation Authority may, by notice to the Secretary of State, refer to the Secretary of State for determination by him not later than twelve months after the date which is the Review Notice Date for the purpose of the relevant Periodic Review, the question whether the limits on the fees specified in sub-paragraph 3.1 and 3.2 payable in respect of any Charging Year should be changed (and if so what change should be made to that limit).

- 3.4 This Condition shall be modified by the change or changes (if any) to the said limits necessary to give effect to any determination made by the Secretary of State following a reference under sub-paragraph 3.3.
- 4 [Not used]
- 5 For the purposes of this Condition, the turnover of the Appointed Business in relation to any period prior to 27 July 2012 shall include the equivalent turnover of the Appointed Businesses of Veolia Water East and Veolia Water Southeast as shown in the accounting statements prepared by them under paragraph 4 of Condition F of their appointments as water undertakers.”