Modification of the Conditions of Appointment of Dee Valley Water plc

Made on 14 March 2014
Coming into effect on 1 April 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 Dee Valley Water plc (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 A is deleted and replaced with the following text:

“Condition A: Interpretation and Construction

1  Unless the contrary intention appears:

   (1) words and expressions used in these Conditions and references in these Conditions to enactments shall be construed as if they were in an Act of Parliament and the Interpretation Act 1978 applied to them;

   (2) references in these Conditions to enactments shall include any statutory modification thereof after the transfer date;

   (3) words and expressions used in these Conditions shall have the same meaning as in any provision of the Water Industry Act 1991;

   (4) references in these Conditions to sections and Schedules are references to sections of, and Schedules to, the Water Act 1989; and

   (5) references in these Conditions to paragraphs are references to paragraphs of the Condition in which the reference appears and references to sub-paragraphs are references to sub-paragraphs of the paragraph in which the reference appears.

2  In construing these Conditions:

   (1) the heading or title of any Condition or of any paragraph of any Condition shall be disregarded;

   (2) any description of the purposes of a Condition shall be construed subject to the provisions of the rest of the Condition in which that description appears; and

   (3) the Conditions will so far as is consistent with other statutory duties and powers, be construed in accordance with relevant considerations specific to Wales, including the relevant legislative and regulatory frameworks applicable to Wales.
Unless the context otherwise requires, in these Conditions:

"the 1945 Act" means the Water Act 1945;

"the 1973 Act" means the Water Act 1973;

"the 1985 Act" means the Companies Act 1985;

"the Appointed Business" means the business consisting of the carrying out by the Appointee of the Regulated Activities;

"the Area" means the area for which for the time being the Appointee holds the appointment as water undertaker;

"Associated Company" means any Group Company or Related Company;

"the Auditors" means the Appointee's auditors for the time being appointed in accordance with the Companies Act 2006;

"books and records" means any and all books, records, files, maps, plans, documents, papers, accounts, estimates, returns and other data of whatsoever nature and whether or not created, recorded or maintained in a document;

"Charging Year" means a year commencing on 1 April;

"the Customer Service Committee" shall be read as a reference to the Consumer Council for Water;

"domestic customer" means the occupier of domestic premises;

"domestic premises" means any premises used wholly or partly as a dwelling or intended for such use;

"financial year" means a financial year of the Appointee beginning and ending on the respective dates referred to in section 390 of the Companies Act 2006;

"Group Company" means any subsidiary or holding company of the Appointee and any subsidiary of any holding company of the Appointee (other than the Appointee);
"**Information**" means information which is in the possession of the person required to furnish it or which it can reasonably obtain or which it can reasonably prepare from information which is in its possession or which it can reasonably obtain, and information which is required to be furnished under any of those Conditions shall be furnished, subject to the provisions of the Condition under which that information is required to be furnished, in such form and manner as the Water Services Regulation Authority may reasonably require;

"**Natural Resources Wales**" means the Natural Resources Body for Wales;

"**Periodic Review**" means a review conducted by the Water Services Regulation Authority for the purpose of determining one or more Price Controls in accordance with Part III of Condition B, but so that references in Part IV of Condition B to a Periodic Review shall exclude any review carried out under paragraph 10 of that Condition and shall include the determination by the Competition Commission of the relevant questions or, as the case may be, the disputed determination referred to it under paragraph 15 of Condition B;

"**Prior Year**" means the year commencing 1 April immediately prior to the relevant Charging Year;

"**Reference Notice**" means a notice given to the Water Services Regulation Authority under paragraph 10 or 13 of Condition B;

"**the Regulated Activities**" means the functions of a water undertaker and, for the avoidance of doubt, references to the functions of a water undertaker shall include references to the duties imposed on a water undertaker;

"**Related Company**" means any company in relation to which the Appointee or any Group Company has a participating interest within the meaning of paragraph 11 of Schedule 10 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 or which has such a participating interest in relation to the Appointee or any Group Company and for this purpose references in that paragraph to a "company" shall be deemed to include references to any body corporate;
"Relevant Premises" means any office premises occupied by the Appointee in relation to the Appointed Business and to which members of the public have access;

"the Retail Prices Index" means the Retail Prices Index published by the Statistics Board each month in respect of all items or, if the said index for the month of November is not published by 31 December next following, such index for such month as the Water Services Regulation Authority may not later than 7 January next following determine to be appropriate in the circumstances, after such consultation with the Appointee as is reasonably practicable, and in such a case references to the Retail Prices Index shall be construed for the purpose of all subsequent calculations for which the value of the Retail Prices Index for that year is relevant as references to that other index;

"Review Charging Year" means the first of the Charging Years in respect of which any Periodic Review is carried out;

"the Review Notice Date" means the first day of January which is fifteen months before the first day of the Review Charging Year;

"the transfer date" means 1 September 1989;

"Water Infrastructure Charge" means such a charge as is described in section 146(2)(a) of the Water Industry Act 1991.

Any notification required or permitted to be given under any Condition shall be given in writing and cognate expressions shall be construed accordingly.

The Appointee may refer to the Water Services Regulation Authority for determination by it (having considered any representations by the Appointee and any other water undertaker) any question arising as to whether any area, island, premises or installation is, or, as the case may be, are, comprised within the Water Supply Area as that expression is defined in Schedule 1 to this instrument.”