On 20 November 2008, Ofwat began a consultation on a proposal to grant Scottish and Southern Energy Water (SSE Water) a variation to its appointment to become the water and sewerage services provider for a development in Welsh Water’s area, called Llanilid Park. The consultation ended on 18 December 2008. During the consultation period, Ofwat received ten representations, which we considered fully and carefully in our decision. We replied to each respondent individually, and also drew to the attention of other potentially-interested parties (Members of the Welsh Assembly Government) the main concerns raised and our responses. We have also had regard to the Social and Environmental Guidance (SEG) to Ofwat from the Welsh Assembly Government.

SSE Water was granted a variation to its existing appointment to serve the Llanilid Park development on 12 March 2009. We published an information bulletin (IB 03/09) about the variation to SSE Water’s appointment on 12 March.

This notice expands on the reasons given in that bulletin.

Introduction
The new appointment regime has been specified by Parliament. It is set out in the Water Industry Act 1991 and comprises a set of entitlements and duties on various parties. A company can apply to replace the existing undertaker as the statutory monopoly supplier of water and / or sewerage services for any particular area. In this case, SSE Water applied to replace Dŵr Cymru as the appointed water and sewerage company for the Llanilid site.

Ofwat has a duty under WIA91 to further the consumer objective. The consumer objective is to protect consumers’ interests, wherever appropriate by promoting effective competition between persons engaged in, or commercial activities connected with, the provision of water and sewerage services.

When deciding whether to grant an application, we must act in the manner best calculated to achieve this objective, amongst others. We believe new appointments and variations provide opportunities for other companies to challenge the existing provider’s traditional service, to offer lower prices to consumers as well as wider community benefits, to innovate in how services are delivered and to promote the use of environmentally-beneficial techniques and methods.

While we must consider our general duties as set out in WIA91 in making an appointment, and any representations or objections made in respect of that appointment, we cannot refuse an application simply because of the views of particular parties as to whether it is desirable or feasible to facilitate entry into a monopoly company’s area by other service providers.

Llanilid
We believe the variation to SSE Water’s appointment to allow it to serve the Llanilid site is consistent with our duties under WIA91. We have taken account of the following specific points raised by respondents to our consultation.
1. Customers' bills

Some parties argued that new appointments would have the effect of increasing prices for the wider customer base because of the way that new developments are financed within the price limits we set for appointees and the way that appointees charge all similar customers an average charge. While it is difficult to quantify this, we considered a simplified set of figures and we are satisfied that any potential effect on the bills of existing Dŵr Cymru customers from this variation will be negligible.

We are also taking a close look at the different ways in which appointees are financed when price limits are set, and the various relationships between and effects on different customer groups. We welcome the points raised by Dŵr Cymru and others and recognise that we have to address significant issues of wider importance across the general regulatory regime.

Dŵr Cymru has also indicated to us that it intends to alter the way it charges on an average basis to counter the potential effect of further new appointments and variations by other companies to serve developments in its area. We will work closely with Dŵr Cymru when it submits its proposals to us for approval.

2. The effect of new appointments on quality regulation

Concerns were raised that increasing the number of new appointments and variations would have a detrimental effect on the quality of Ofwat's regulation. We do not consider new appointments to have an adverse effect on the quality of our regulation and have no reason to believe they affect the quality of work carried out by other regulatory bodies, such as the Consumer Council for Water, the Environment Agency and the Drinking Water Inspectorate. We consider new appointments to be of benefit to ongoing regulation by providing an opportunity for new and potentially innovative comparators to enter the industry. Furthermore, we cannot refuse applications for new appointments or variations simply because of the potential regulatory burden on ourselves or other regulators.

3. Maintenance of infrastructure

It was argued that new appointees may have an incentive to run the local network until such a time that maintenance would be needed to ensure the network remained capable of performing satisfactorily, and then to withdraw from the market as soon as the maintenance demands had a negative effect on the business. We have no reason to believe that a new appointee may leave the industry when maintenance is needed on its infrastructure, and no evidence has been presented to suggest that this is the case. We have the ability to regulate new appointees’ prices and levels of service in the same way as we do those of existing appointees.

4. Unserved status of the Llanilid site

The Llanilid Park application was made via the 'unserved criterion'. To qualify under this 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 appointed company. We consider premises to be served if water is supplied by a
connection to a distribution main of the existing incumbent provider or if they are drained by means of a relevant sewer or drain. It was argued that this site did not meet the unserved criterion. However, in this case the sewer was physically prevented from being able to drain until the appointment was made. We therefore were satisfied that the site was unserved.

5. Customer service

Concerns were raised that the future customers on Llanilid Park will not receive a level of service comparable to that of the incumbent undertaker. Where there are no customers on a site to gauge their views on such an appointment, Ofwat acts to protect these future customers. We rigorously assess new appointees’ service level offerings as well as their scheme of charges to ensure that customers will be no worse off in terms of both price and service. SSE Water demonstrated to us that it is capable of providing a level of service which meets the GSS requirements. It will also have approved codes of practice in place, as required by its appointment conditions.

6. Dŵr Cymru’s approach to serving customers

Dŵr Cymru argued that it is a "not for profit" organisation, unlike other water companies, and is run on behalf of the general public rather than for shareholders. It says it provides customers with annual dividends and has introduced social tariffs for vulnerable customers. It raised concerns that undertakers with a "for-profit" business model may put the interests of shareholders before the interests of the public.

We note that Dŵr Cymru does make profits, like all other appointees, but it uses these to finance its debt funding, increase its cash reserves and provide the 'customer dividend'.

SSE Water proposes to match the dividend payments that would have been made by Dŵr Cymru to customers at Llanilid Park and to ensure that customers pay no more than they would have done under Dŵr Cymru. Furthermore, in line with the Water Industry (Charges) (Vulnerable Groups) Regulations 1999 made by the Secretary of State for the Environment, SSE Water offers a WaterSure Tariff to some groups of metered customers. The WaterSure tariff limits the total bill for customers who pay for their water using a meter but have high water use.

7. New appointments require customers to accept the appointee as their supplier

Where applications are made to serve new developments, where end-customers are not yet on-site, Ofwat acts on their behalf to protect their interests. Ofwat also takes into consideration the choices of the site developer. In this case, the site developer had the choice of selecting SSE Water or Welsh Water, and it chose SSE Water. The fact that future households on the Llanilid site have not directly chosen SSE Water to be their supplier is not a position unique to new appointments – nowhere in England and Wales are households able to choose their water supplier. Recognising this, our assessment of applicant’s proposals includes analysis of their plans to ensure customers will be at least no worse off in terms of annual bill and
levels of service. We also can and will regulate new appointees’ prices and service levels in the same way as we do those of existing providers.