Modification of the conditions of appointment of Thames Water Utilities Ltd as a water and sewerage undertaker

On 24 February 2011 Ofwat began a consultation on a proposal to modify the conditions of appointment of Thames Water Utilities Ltd as a water and sewerage undertaker. The consultation ended on 24 March 2011. Ofwat received no substantive comments on the proposed modification. On 29 March 2011 we made the proposed modification of Condition N of Thames Water's appointment and it came into effect on 31 March 2011.

This notice gives our reasons for making this modification.

Background and reasons for the modification

As announced in Written Ministerial Statements made to Parliament on 22 March 2007 (HC Deb 22 March 2007 c52-53WS) and 7 September 2010 (HC Deb 7 September 2010 c9-11WS), Thames Water is developing projects to reduce the volume of untreated sewage being discharged into the River Thames. This is anticipated to include tunnelling, treatment and associated works. These statements supported the construction of a "Thames Tunnel" to address the need to improve the water quality in the Thames by upgrading the sewerage infrastructure.

Currently, combined sewer overflows discharge raw sewage into the River Thames on around 50 occasions a year and this is expected to increase. Complete eradication of some spills of sewage into the Thames during periods of heavy rainfall is not feasible: this is the legacy of a sewerage system which carries both foul water and rainwater. But the frequency and volume of spills can be reduced.

In his 7 September 2010 statement to Parliament, Richard Benyon MP, the Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs, noted that since the 22 March 2007 statement by the then Minister for Climate Change and the Environment (Ian Pearson MP):

"Thames Water have started work on building a tunnel (known as the Lee tunnel) from Abbey Mills pumping station to an upgraded Beckton sewage..."
treatment works at a total cost of around £0.8 billion. When complete these works should reduce the total volume of sewage overflows into the tidal Thames by around two thirds. However significant volumes of raw sewage will still continue to enter the Thames at times of heavy rainfall particularly in the higher reaches of the tidal Thames from Hammersmith through central London which will get less benefit from the Lee tunnel.

[...] In 2007 the then Government judged the cost of the [Thames Tunnel] scheme to be at least £2 billion, with a peak annual increase in bills for Thames Water customers of £37. Since then greater analysis and study by Thames Water have led to a revised estimate of £3.6 billion, including contingency costs but excluding the Lee tunnel and other elements of the scheme which have already been contracted for. This could result in future peak annual bill increases of around £60-65 (£80-90 including the Lee tunnel and other elements).

I recognise that in the current economic context this represents a significant cost to Thames Water customers and, while we judge this to be a robust cost estimate for this stage of the process we cannot rule out further changes to the estimates as work progresses. However a Thames Tunnel continues to offer (by far) the lowest cost solution to the problem and I believe Thames Water should continue to press forward with this project working with Ofwat, the Environment Agency and DEFRA on the regulatory, commercial and planning processes. Thames Water intend to consult on options for the route of the tunnel shortly¹. We with Ofwat will continue to ensure that the costs are scrutinised and reviewed so that I can be assured before Thames Water sign a construction contract that the final proposal represents proper value for money."

The Thames Tunnel project may be delivered through an infrastructure service provider (see section 35 of the Flood and Water Management Act 2010), by another special purpose vehicle or possibly by construction directly managed by Thames Water. In all cases Ofwat will have a key role in relation to the tendering process and reviewing the project progress. Preparatory work has already begun and to facilitate this Ofwat and Thames Water agreed a process by which the costs that Ofwat

¹ The first round of public consultation for the Thames Tunnel took place from 13 September 2010 to 14 January 2011.
incurred in this process would be recovered directly from Thames Water. This arrangement has now, with the agreement of Thames Water, been formalised in an amendment to Condition N of Thames Water’s Appointment.

The modification

Condition N requires Thames Water to make certain payments (listed in paragraph 2) at the times stated to cover, among other things, the normal running costs of Ofwat and the Consumer Council for Water. The modification introduced a new and separate requirement for Thames Water to pay the costs that Ofwat incurs in relation to the Thames Tunnel project and related works referred to in the above Written Ministerial Statements.

Thames Water is required to make payments on 1 April and, if Ofwat so requests, 1 January in each year in respect of the costs estimated by Ofwat as likely to be reasonably incurred, or as already reasonably incurred, in respect of the Thames Tunnel project and related works. The amounts to be paid are determined by Ofwat, after consulting Thames Water.

Thames Water is not required to make payments totalling more than £10 million unless it agrees a higher limit with Ofwat.

The requirement to make these payments is time-limited so that Thames Water can only be required to make payments in the seven consecutive charging years beginning on or after 1 April 2011 (a period ending on 31 March 2018) unless it agrees a longer period with Ofwat.

Responses received to the consultation

Thames Water agreed to the modification and no other responses were received to the statutory consultation under section 13(2) of the Water Industry Act 1991.

Conclusion

Having considered the case for the licence modification and after receiving Thames Water’s agreement and no other comments on the proposed modification, we decided for the reasons set out above to make the proposed modification of Condition N of Thames Water’s appointment. This modification became effective on 31 March 2011.

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