



Consultation on Access Code Guidance

CIWEM Response to OFWAT Consulation, January 2005

General comment

CIWEM understands that Ofwat advised water companies to prepare their business plans without consideration of competition. It is not clear how water companies will be recompensed should competition deprive them of income they had assumed and of the stranded assets that could emerge if alternative supply arrangements are made by a new supplier. In the latter case will Ofwat as part of its duty on sustainable development consider this aspect in determining the application by the new supplier? We believe it is essential that water companies do not lose income as a consequence of new suppliers entering the market, unless that income is balanced by a reduction in costs. Otherwise, customers not eligible for competition would see their prices rise. It is also considered that the new supplier should be subject to the same water efficiency requirements as the existing water undertaker.

Q1. Do you think we strike the right balance between the obligations placed on water undertakers and licensees through this guidance and the conditions of appointment and conditions of a water supply licence?

There is an attempt to balance the obligations out, however because they are high level there are clauses that each party could exaggerate for the purpose of either preventing or promoting an agreement. For example, the undertaker, in forecasting future requirements, needs to allow for impacts which are difficult to quantify e.g. future peak demands, impact of growth, climate change etc. Conversely, the licensee could under estimate the demand from the new connection either deliberately, with the result that it may put an additional burden on the undertaker, or by default because of the uncertainty in future requirements by its customer. This is a particular risk because of the volatility of current markets and the impact of this upon water consumption. OFWAT would need to weigh the consequences of decisions made in this regard with some care, with respect to potentially prejudicial impacts on the undertaker or the licensee, in their operations and service levels.

Q2. Do you agree with the proposals set out regarding confidentiality agreements?

The confidentiality agreements appear to be reasonable.

Q3. Do you think the information requirements set out above are sufficient?

The information required is comprehensive enough, however whether each party can provide it in the detail required, in order to have a full understanding of future requirements and risks, is unclear.

Q4. Do you agree that this guidance should not specify reasonable information requirements during each stage of the application process, but leave these to negotiations between water undertaker and licensee?

The proposal appears reasonable and, in CIWEM's consideration it would be difficult to specify reasonable information requirements because each application will have differing requirements. However, the guidance assumes that each party is entering into the negotiations because they will benefit and hence co-operate. The water undertaker is not necessarily a willing partner and could stall proceedings. It is suggested that Ofwat will need to monitor this closely.

The Chartered Institution of Water and Environmental Management
Consultation response – [January 2005]

Q5. Do you agree with the proposed timescales for each stage of the application process? Please explain your response.

Until experience is gained it is uncertain as to the time that will be taken for each stage. A lot will depend on the complexities of the application and the willingness of each party to progress it, particularly the water undertaker.

Q6. Do you think that we have identified the key stages of the application process?

There is no reference to the Environment Agency and its duty to ensure the efficient use of water resources. Although there may not be abstraction licence applications involved, the Agency may have a view on the impact of the transfer of demand to another source if the licensee provides its own water source. This may impact on the water undertaker's licensing position as far as the Agency is concerned. This should form part of the introductory phase so that all parties are aware of the impact of any water resources changes as seen by the Agency.

Q7. Do you think we should set out timescales for each stage of the process or should we simply set out an overall period of time within which we expect agreements to be made?

It is important to set out time scales for each phase, but to also afford flexibility within the context of an overall time frame.

Q8. Would you find it helpful if our guidance specified separate application processes for applications for a wholesale supply and for a combined supply?

CIWEM suggests that it would be helpful to have two sets of guidance as there are subtle but important differences which can impact on time frames.

Q9. Do you think that the corresponding flow diagrams accurately reflect the steps involved in the application process?

and

Q10. Do you agree with the proposed activities set under each key stage of the application process?

CIWEM agrees, but with the caveats above.

Q11. Do you agree with the proposed reasons for objection?

CIWEM is concerned that the onus is on the Water undertaker to challenge such things as eligibility when they are unlikely to be willing partners in a process which may ultimately lose them a customer. It is suggested that Ofwat should take a proactive approach in ensuring that licensees do not supply customers that are not eligible. Otherwise the Water undertaker may consider this yet another regulatory burden whose purpose can hardly be considered to be pro the interests of the undertaker.

Q12. Are there any other reasons for objection that need to be included here?

No.

Q17. Do you agree that licensees must ensure their water is compatible with water undertaker's water?

CIWEM agrees.

Q18. If water quality changes after a scheme goes live, should licensees have to change their inputs to ensure compatibility criteria? If so, who should bear the cost of this?

**The Chartered Institution of Water and Environmental Management
Consultation response – [January 2005]**

We suggest that licensees should be required to change their inputs if water quality changes would result in non compliant water. In such a case it would be right for the cost to be borne by the new licensee.

Q19. What information flows do you think are reasonably required for the safe and efficient management of the water undertaker's supply system? Please explain your response.

Flow and quality data should be required on a regular basis, depending on the type and sensitivity/risk of the supply. We suggest that this may be needed more frequent initially, and less so later as the system and understanding settles down. A switch from regular reporting to random checking might prove possible, in this regard.

Q20. Do you think this information should be set out in the Access Code or left to access agreements?

CIWEM considers that this information should be in the access agreement.

Q21. Do you think that the above approach is reasonable and practical?

This question reflects the difficulties that can arise from these enterprises when it comes to long term planning and the need for close co-operation of parties that are in effect in competition with each other.

Q23. Do you agree with our proposed approach towards metering?

We consider that metering at an industry accepted standard is essential. So too the sharing of data. Provision should be made to incorporate the data into the Water undertaker's data recording process e.g. via telemetry.

Q28. Do you agree that water undertakers need to provide indicative access prices in addition to case-specific access prices?

CIWEM agrees that indicative access prices are needed, but with the recognition that they are indicative and are provided without prejudice.