

New areas in retail competition July 2009

This consultation seeks the views of market participants on the Water Industry Commission for Scotland's proposals in its Draft Determination to reallocate the following activities from wholesale to retail: metering, trade effluent and connections/disconnections/reconnections.

The focus of this consultation is implementation. It sets out the various technical changes that are proposed for the market framework and how these changes would be codified in the market framework documents, such as the Operational Code and Disconnections Document.

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Background

As part of its Draft Determination, the Water Industry Commission for Scotland (the **Commission**) has revisited the allocation of activities between wholesale and retail in the non-household market. This has consisted of the Commission considering to what extent the activities currently classified as wholesale activities should more properly be classified as retail activities.

It was the Commission's original intention to include areas such as trade effluent and connections/disconnections/reconnections within retail from the opening of the non-household market in April 2008. Although these areas were not included in retail at market opening, the Commission believes that their inclusion is critical to ensuring that further benefits continue to accrue to customers, licensed providers and Scottish Water.

As well as clarifying their original intentions with regard to trade effluent and connections/disconnections/reconnections, the Commission has also considered whether new areas such as metering should be reallocated from wholesale to retail. Like trade effluent and connections/disconnections/reconnections, the Commission believes that including metering within retail will ensure future benefits for all market participants.

The Commission therefore seeks the views of interested parties on its proposals to amend the market framework documents to codify the reallocation of the three areas referred to above, namely:

- Metering;
- Trade Effluent; and,
- Connections, disconnections and reconnections.

Annexes 1 to 3 set out the market framework documents that we proposed to amend or introduce namely the Metering Code, the Operational Code and the Disconnections Document. Please note that diagrams and forms have been removed from these drafts for ease of review.

We should receive representations on or before 23 September 2009. We will publish all responses to this consultation unless the respondent requests otherwise.

The Commission's proposals

1. Metering

It is the Commission's intention to require Scottish Water to create a new subsidiary company, (**MeterCo**)¹. This new metering company would own all current and future meters installed on Scottish Water's network. Licensed providers would contract with MeterCo to 'rent' the meters installed on the premises of their customers and pay annual meter charges to MeterCo. For the most basic meter provision we propose introducing a default annual meter charge and corresponding retail tariff, but for all other meters (where licensed providers would provide a value-added service) the annual meter charges would be negotiated between the licensed provider and MeterCo.

At the same time MeterCo would establish a regime whereby Accredited Meter Operators (**AMOs**) would carry out the installation, upkeep and replacement of all meters on the instruction of licensed providers. All licensed providers would be able to become AMOs², but other parties such as engineering companies would also be able to apply. AMOs would recover the costs of installing, repairing, replacing and upgrading meters from licensed providers who would in turn negotiate with MeterCo to recover those costs³.

MeterCo would collect information on meters⁴ but would not make operational decisions on their use save for indicating when a meter had reached the end of its economic life and must be replaced. Licensed providers would therefore be able to decide, in consultation with their customer, what type of meter would be most appropriate⁵ and when and where it should be installed. Licensed providers would then contract direct with AMOs to carry out

¹ It is proposed that Scottish Water would have a nominal presence on the board of MeterCo and that the company would be run along similar lines to Scottish Water Business Stream Holdings with a similar governance code.

² Restrictions may be placed on licensed providers with large market shares to ensure competition within the AMO market.

³ Licensed providers would not be able to recover the costs of datalogging activities from MeterCo. However, licensed providers would be able to appeal to the Commission if they were unable to agree recoverable costs and annual meter charges for a meter.

⁴ It would maintain and update a database of all meters and associated dataloggers but licensed providers would continue to be responsible for meter reading.

⁵ Datalogging on meters would also form part of the activities covered by the new metering regime.

such work. This would allow licensed providers to ensure that meters are sited appropriately allowing them to bill effectively and disconnect customers where necessary⁶.

MeterCo would also be responsible for setting the minimum technical standards for meters and AMOs wishing to operate within the market. Whilst there would be a minimum standard of meter, customers should see more innovation as there would be no restriction on the types of meters that can be used in the market.

Metering Code

The operational rules for metering would be codified in a new Metering Code, a draft of which can be found at Annex 1. The Metering Code would be an annex to the Operational Code and as such would be binding on all licensed providers and Scottish Water. All AMOs would also be required to comply with the terms of the Metering Code.

The Metering Code would codify the relationship between licensed providers, the AMOs and MeterCo and would incorporate the existing parts of the Operational Code in relation to metering. However, the metering sections of the Market Code would remain as part of the Market Code to avoid over complication and to ensure the logical separation between market governance (the Market Code) and operational matters (the Operational Code) remains.

It should be noted that not all of the associated documents are included with the draft Metering Code, for example the AMO accreditation scheme, the template Metering Charges Agreement or the Metering Standards. We would welcome stakeholders' views on the terms of all three of these further documents.

2. Connections, disconnections and reconnections.

New connections are a customer facing activity. The current arrangements, with repeated interaction between Scottish Water and the licensed providers, are not sufficiently customer focused to provide real value for customers.

Currently, customers may make enquiries of Scottish Water regarding new developments and then apply for new connections through their licensed provider. However, it is Scottish Water who is the driver of the subsequent process making the decisions regarding the suitability of the application and (in most cases) effecting the physical connection. Both the customer and their licensed provider are therefore dependent on Scottish Water who determines the speed and the cost of the entire process.

⁶ All disconnections would continue to be controlled by the terms of the Disconnections Document.

Whilst Scottish Water remains best placed to provide information on the available capacity within its network, the Commission sees no reason why licensed providers, working in conjunction with their customers, should not decide where connections can be made to the network and then effect that connection on behalf of the customer. This should mean improved service for customers through choice and lower costs.

Disconnections and reconnections are also customer facing activities. The present arrangement with parts of the process being carried out by Scottish Water and other parts by licensed providers overcomplicates what should be a straight-forward process. There are also misaligned incentives such as the fact that Scottish Water, which must currently effect all disconnections, cannot take money from a customer at the time of disconnection should that customer wish to avoid disconnection by making a payment.

New connections

For new connections it is proposed that the driver of the process would move from being Scottish Water to the licensed provider. Scottish Water's participation in new connections would therefore be limited to the provision of information on the network capacity for proposed developments, the approval of connection applications, the accreditation of contractors⁷ who may make new connections on the network and the minimum technical standards to which all licensed providers and their contractors must comply. Licensed providers would therefore be responsible for all substantive activities such as network modeling, any necessary survey work, bylaw compliance checks as well as the physical connections themselves.

The proposed changes would take effect through amendments to the new connections processes set out in the Operational Code. A draft of the revised Operational Code can be found at Annex 2.

Disconnections (and Reconnections)

As with new connections, it is proposed that the driver of the process for disconnections and reconnections would move from being Scottish Water to the licensed provider. Disconnections and reconnections would be carried out by independent sub-contractors from a list approved by Scottish Water⁸. Where a licensed provider wished to disconnection or reconnection its own customer, that licensed provider would be able to elect to be the approved contractor carrying out the work. Where the licensed provider was not an

⁷ Which may include licensed providers.

⁸ Licensed providers would be able to apply for the requisite approvals.

approved contractor or did not elect to be the contractor, Scottish Water would then tender the work to one of the other contractors.

The proposed changes would take effect through amendments to the Disconnections Document. A draft of the revised Disconnections Document can be found at Annex 3.

3. Trade effluent

Trade effluent consents are granted by Scottish Water under statute and their enforcement is also a statutory responsibility of Scottish Water. However, the management of these consents is not a statutory responsibility. As the process of managing consents involves liaising with customers and carrying out regular and spot sampling, the Commission believes this process would be best managed by those closest to the customers, namely the licensed providers.

Licensed providers would have increased involvement in the negotiation of trade effluent consents which should ensure that customers' interests are understood and realised from the outset. Licensed providers would carry out regular sampling⁹ to the standards set out in the trade effluent consent and would report that information to the CMA. They would also carry out spot sampling in line with their customer's sampling plan. Further, licensed providers would be involved in customer-side investigations where there may have been pollution incidents involving little or no environmental impact¹⁰.

Scottish Water would therefore remain responsible for consent compliance and policing activities including the investigation of those situations where there is an immediate risk to either its staff or the environment.

The proposed changes would take effect through amendments to the trade effluent processes set out in the Operational Code. A draft of the revised Operational Code can be found at Annex 2.

Consultation

The Commission believes that by extending the competitive market in the three areas set out above customers should continue to receive the best possible service going forward and

⁹ All licensed providers would be required to agree with Scottish Water a sampling plan in relation to each of their trade effluent customers.

¹⁰ Pollution incident responses contained within the Operational Code would be divided into categories based on SEPA's definitions of pollution incidents with severe incidents remaining the responsibility of Scottish Water.

licensed providers and other participants in the market should be incentivised to innovate, both technologically and environmentally.

We should receive representations on our proposals or before 23 September 2009. We will publish all representations to this consultation unless the respondent requests otherwise.