

Appendix 6:

Open letter to Rhona Brankin MSP, August 2005

WATER INDUSTRY COMMISSION FOR SCOTLAND

Date: 24 August 2005
OurRef: IB240805RB
Your Ref :

Rhona Brankin MSP
Deputy Minister for Environment & Rural Development
Pentland House
47 Robb's Loan
Edinburgh EH14 1TY

Retail licensing : Scottish Water's retail subsidiary

I am writing to outline the Water Industry Commission's plans for introducing the regime that will license retail water and sewerage services in the non-household sector in line with the provisions of the Water Services etc. (Scotland) Act 2005. The plans are consistent with the policy guidance on the matter that Ross Finnie issued to Scottish Water and the former Water Industry Commissioner on 26 May 2004. They take account of responses to the consultation on the principles that should be applied in introducing the licensing framework that the Commissioner published in April this year. In particular they seek to address concerns raised by Scottish Water in its response to the consultation.

The Commissioner's consultation proposed that Scottish Water's retail subsidiary should be offered an interim licence covering the period from April 2006 until April 2008, when it was proposed to make permanent licences available to it and new entrants to the market.

Scottish Water has argued strongly against this proposal. It believes that the Water Industry Commission should allow Scottish Water's subsidiary to apply for a permanent licence from April 2006. As was noted in the consultation, there would be advantages in adopting this course. A permanent licence would provide the subsidiary with greater certainty and would give prospective new entrants more information about the structure of the market after 2008.. In the light of these considerations and in view of the strong view expressed by Scottish Water, we have concluded that it would be best to offer Scottish Water's subsidiary the opportunity to apply for a permanent licence that would take effect from 1 April 2006.

Clearly, if Scottish Water's subsidiary is to apply for a permanent licence, it must do so on terms that will establish a framework that will apply to all future applicants. Consequently, we will be obliged to put in place quickly the process by which applications for permanent licences can be made and considered. In the time available, this will be a considerable task. However, having consulted our legal and accountancy advisers, we are confident that it can be managed successfully and that we will be in a position to consider an application from the subsidiary in March next year.

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**WATER INDUSTRY
COMMISSION
FOR SCOTLAND**

Achieving our March target will depend on the Commission working closely with the Executive and Scottish Water in completing a number of important preparatory tasks. It will require us to bring forward our programme of work on licensing, so that we can consult in detail on the licence application process, the draft permanent licence and other strategic issues in October.

A key element of the application by Scottish Water's subsidiary will be its submission of a detailed business plan, which will provide the basis on which the Commission will assess the subsidiary's fitness to provide retail services. To ensure that Scottish Water has sufficient time to prepare its plan, we will anticipate the application process and issue guidance next month on the matters that will need to be covered in the plan.

This business plan could also reasonably be used to inform the decisions that the Executive will need to take in connection with its direction on establishing the subsidiary. These include decisions on the assets that should be transferred to the subsidiary and the interest rate and the level of dividend that the Executive would expect to receive from the retail subsidiary of Scottish Water.

I attach as an annex to this letter, the key tasks that each party will need to complete in the coming months. We believe that this is a challenging, but feasible timetable. It will require all stakeholders to work hard to ensure that there are no avoidable delays. However, if the retail subsidiary of Scottish Water provides a detailed business plan consistent with the guidance that we will issue, it should be possible to issue a permanent licence by April 2006.

I should be grateful to know that you are content that the Executive, Scottish Water and the Commission should work together on the basis outlined above.

I am sending copies of this letter to Alan Alexander and Ian Smith.

Sir Ian Byatt
Chairman

*cc Professor Alan Alexander
Ian Smith*

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Annex**Timeline and key tasks**

Water Industry Commission issues retail business plan guidance.	21 September 2005
Water Industry Commission issues consultation on application process, draft permanent licence and other strategic issues.	24 October 2005
Scottish Water's retail subsidiary submits its business plan.	21 December 2005
Executive makes any orders under the Water Services etc. (Scotland) Act 2005 required to support the application process	Early January 2006
Consultation closes.	24 January 2006
Water Industry Commission issues requests for clarification from retail subsidiary.	31 January 2006
Retail subsidiary response to issues for clarification.	21 February 2006
Water Industry Commission response to consultation published.	24 February 2006
Executive directs legal creation of subsidiary and transfer of assets to it.	7 March 2006
Subsidiary submits licence application.	8 March 2006
Licence granted.	31 March 2006

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