

**Minute of the thirty-ninth meeting of the Water Industry Commission for
Scotland**

Held on 1 July 2008 in Stirling

Present:

Sir Ian Byatt (Chairman)
Professor David Simpson (Deputy Chairman)
Professor John Banyard
Dr Michael Brooker
Mr Charles Coulthard
Mr Alan Sutherland (Chief Executive)

In attendance:

Mrs Katherine Russell (Director of Corporate Affairs)
Mrs Donna Very
Dr David Tyler (Senior Engineer) (for item 6)
Mr John Simpson (Director of Analysis) (for items 7 & 8)

Chairman's opening remarks

The Chairman welcomed everyone to the meeting and thanked them for attending.

1. Apologies for absence

None

2. Minute of previous meeting and review of action points

2.1 Minute of last meeting (05/08)

The Commission agreed that the minute was an accurate account of proceedings.

2.2 Review of action points (AP05/08)

The Commission were updated on action points from the previous meeting.

3. Update on current issues

3.1 Working with stakeholders

3.2 Other current issues

- The Chairman reported that he and the Chief Executive had attended a European Policy Forum Roundtable on the Martin Cave review.
- The Chairman and Chief Executive reported that they had met with Mr Stewart Stevenson, Minister for Transport, Infrastructure & Climate Change. They had discussed the availability of public borrowing to Scottish Water in the 2010-14 regulatory period. The Minister confirmed the position outlined in the Scottish Government's budget.
- The Chairman confirmed to the Commission that Mr Stevenson intends to come to the next Commission meeting in September.
- The Chairman reported that the launch of the Annual Report had gone well. In particular, he welcomed the attendance of senior staff from the Drinking Water Quality Regulator (DWQR), Scottish Environment Protection Agency (SEPA), and Waterwatch Scotland.
- Dr Michael Brooker reported that Ofwat had appointed Cathryn Ross as Director of Markets. She was previously with the Competition Commission.
- Professor John Banyard raised the issue of licence applications in light of Aquavita's licence being revoked by the Commission and asked that the Commission review the criteria of licence applications.
- Professor David Simpson reported that he had attended the Ofwat Annual Summer Party.
- Mrs Katherine Russell reported that joint meetings with Ofwat were in the process of being confirmed.

3.3 Update on the Central Market Agency (CMA)

The Commission noted the written update on the work of CMA submitted by its Chief Executive and thanked him for attending.

4. Corporate Affairs

4.1 Update on the office workplan (CP82/08)

The Commission noted the update to the office's workplan.

4.2 Update on framework contracts (CP83/08)

The Commission noted this update.

4.3 Performance Monitoring Summary reports (CP84/08)

The Commission noted this paper and were pleased with the work carried out by Martin Leitch in providing these reports.

5. Competition

5.1 Update on Aquavitae (CP85/08)

The Commission were asked to consider revoking Aquavitae's licence on the basis that the company no longer had the ability to perform adequately the activities authorised by its licences.

The Commission agreed that it should be minded to revoke Aquavitae's licences and delegated authority to the Chief Executive to review any responses to the Commission's intention and, if appropriate, implement decisions concerning the revocation of the licences and the issue of any notices, related directions, waivers or consents.

5.2 Update on Schedule 3 (CP86/08)

The Commission were updated on the latest position in relation to Schedule 3 agreements.

The Commission noted this update and requested a further update in September.

5.3 Revisions to Market Entry Process (CP87/08)

The Commission considered the current Central Market Agency (CMA) assurance process for new market entrants. The Commission noted that licensed providers would register customer switches through either a high volume or a low volume interface. To date only Scottish Water and Business Stream had opted for the high volume interface.

The Commission considered that the high volume interface was unlikely to be used in the early days of a new entrant's participation in the market. Given that the high volume interface was designed to allow large-scale transfer of information, the Commission agreed that a robust assurance process was desirable.

In the case of a new entrant using the low volume interface, the Commission considered that barriers to participation in the market should be minimised and that a new licence holder should be able to participate in the market as soon as it has received its licences.

The Commission therefore agreed that the current assurance process should be simplified in line with the proposals set out in CP87/08,

providing that CMA were in agreement that this new process could be implemented.

The Commission also agreed to delegate authority to the Chief Executive to finalise the drafting and the details of the implementation.

5.4 Revision to gap site and provider of last resort processes (CP88/08)

The Commission noted that the current market code requires supply points to be allocated to licensed suppliers on a rotational basis, so that each licensed supplier receives an equal share of such supply points over time.

The Commission agreed that this process should be amended so that until 1 April 2009, all gap sites identified by Scottish Water and all supply points made available under provider of the last resort (POLR) processes should be allocated to Business Stream unless a new entrant explicitly asked for an allocation. This would not compromise the ability of any customer to choose his supplier for, in this event, the customer would not be subject to the POLR process.

The Commission agreed to delegate authority to the Chief Executive to implement a revision to the Market Code after a consultation with existing and potential market participants.

5.5 Update on communications strategy (CP89/08)

The Commission noted this update.

6. Investment

6.1 Oral update on investment delivery

6.2 Progress on investment progress (CP90/08)

The Commission noted CP90/08, including the Output Monitoring Groups report for Quarter 4 period 2007-08 to end of March 2008. Dr David Tyler provided an oral update on Scottish Water's most recent investment activity to the end of May 2008. He reported that while there had been some progress in regulatory sign-off of outputs there is some way still to go.

7. Strategy

7.1 Update on Scottish Water Draft Business Plan (CP91/08)

The Commission agreed a draft of a response to Scottish Water's first draft business plan, which took account of Scottish Water's presentation to the Commission of its plan.

7.2 Scottish Futures Trust (CP92/08)

The Commission noted this paper.

8. Financial

8.1 Interim Determination of K (IDOK) for 2009-10 (CP93/08)

The Commission agreed to delegate authority to the Chairman and Chief Executive to decide whether to pursue an IDOK relating to Scottish Water's charges for 2009-10. It was not expected that Scottish Water would seek an interim determination.