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Ofwat
Centre City Tower
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By email only to: in-periodODIs@ofwat.gov.uk

21 October 2022

Dear Ofwat,

Response to the draft determination of Yorkshire Water's in-period outcome delivery incentives for 2021-22

Thank you for providing an opportunity to comment on the draft determination for the 2021-22 outcome delivery incentives (ODIs).

We note the decision on our request for an intervention related to the effects of Storm Arwen and the adjustments to our significant water supply events performance commitments outcome. Our response to these, and other points of note, is as below.

Water supply interruptions and significant water supply events (Storm Arwen).

We have considered the in-period ODI draft determination carefully and we maintain our position on these events.

We also do not believe that our previous performance in these measures is relevant to Storm Arwen, which should be considered in the context of the unique circumstances in which it occurred.

We re-iterate our response accompanying our APR in which we evidenced that:

- Yorkshire Water was adversely impacted by the loss of power supply from Northern PowerGrid (NPg) and NPg's response throughout the storm, which was declared as a major incident.
- The loss of water supply was not attributable to Yorkshire Water but was a consequence of large-scale loss of power supply from NPg across a large geographical area.
- Yorkshire Water did everything in our power to minimise the impact on our customers and restore water supply as soon as possible.

We continue to believe, in light of the evidence we have provided, that Ofwat should intervene to exclude their impact of Storm Arwen. We have restated our position in light of Ofwat's proposed PR24 draft methodology that seeks to remove the safeguard of the Civil Contingencies Act. We wish to be clear that we do not support the removal the Civil Contingencies Act and we do not wish to establish a precedent of accepting that a major even such as Storm Arwen should not result in a regulatory intervention.

Significant water supply events (adjusted events)

We have considered the in-period ODI draft determination, and we do not agree with your position on these events. The significant water supply events measure, as stated in our PR19 submission, as part of the 'Bespoke Performance Commitment Definitions'¹, Appendix 19b, page 93, states, 'The performance commitment reflects how resilient both our assets are and the *operational response* to events that could impact the long-term supply of water to our customers.'

For both the events, at Tandem Way and High Bradfield, we acknowledge the issue of asset resilience, but our operational response meant that we could have restored supplies to these properties within the 12-hour period had the customers agreed to our restoration plans. The ability to have an effective operational response is pivotal to providing the expected level of customer service should things occur that are not to plan.

As the customers opted not to be restored within a twelve hour period, we do not believe this should result in Yorkshire Water being financially penalised. For both events, we do not believe the alternative response of ignoring the customer request and forcing a temporary supply on customers would have been in the best interests of customers or the company. This would have implications for the health & safety of the employees onsite, legal implications around potential breaking and illegally entering a customer property, and it would not have given a

¹ https://www.yorkshirewater.com/media/auqcfuy4/19b_bespoke-performance-commitment-definitions.pdf

satisfactory level of customer service to the residents that were without a water supply. The customers actively chose not to be restored in this time. It is clearly an unintended and perverse outcome to suggest that we should ignore a customer decision and instead to intervene where a customer does not want us to, to avoid incurring an ODI penalty. On this basis the only sensible approach is to allow for an adjustment to the reported performance to account for this.

Overall, as a measure of customer service, we believe we have provided the best possible customer service, given the circumstances. We would also highlight, had we have continued works through the night at High Bradfield, this may have caused customer complaints resulting in impacts to C-MeX measures and other customer service metrics. In addition, due to the complexities of servicing non-household customers in the retail market, this made the circumstances at Tandem Way particularly complex when the onsite restoration techniques offered were refused.

We believe your decision highlights risks to Yorkshire Water when making operational decisions. When above the Performance Commitment Level (PCL) the financial penalty associated with each event means including these events would incentivise seeking ways of implementing a temporary supply at the detriment of customer service, more-so whilst we are dealing with other escalated operational incidents.

Considering this as a customer service measure, we do not believe it is within the spirit of the performance commitment to include these two events.

Water quality compliance (CRI)

We have noted the adjustment made to this performance commitment and confirm our acceptance of the updated score.

D-MeX revenue

We note in the Draft Determination that an incorrect revenue sum was used to calculate the penalty associated with D-MeX. We can confirm we highlighted the change and reason for this to Ofwat in the resubmission of our data tables on 5 September 2022.

Assurance was carried out which altered data within figures in Table 2E and K. The dependency of these changes to Table 3D.5 were not originally actioned. To confirm, the correct figure for 3D.5 is 11.802. We have separately attached the resubmitted models for ease of reference.

External sewer flooding

We have returned responses to all requests for information in relation to our external sewer flooding performance measure which confirm our position.

Change request

We would like to highlight a change request we submitted to Ofwat for review. We would like to understand your position on this to enable us to make amendments to our revenue. We have attached this separately for ease of reference.

Should you believe that the resolution of issues highlighted in this letter may benefit from a discussion, we would be happy to facilitate this. We look forward to hearing from you.

Yours faithfully,

Richard Hepburn
Head of Regulation
Yorkshire Water