



Protecting consumers, promoting
value and safeguarding the future

Nigel Annett
Managing Director
Pentwyn Road
Nelson
Mid Glamorgan
Treharris
CF46 6LY

Centre City Tower
7 Hill Street
Birmingham
B5 4UA

Phone: 0121 625 1300

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Dear Nigel

Proposed inset appointment for water and sewerage services at Llanilid

Thank you for your letter of 27 November, in response to our proposal to appoint SSE Water to be the water and sewerage undertaker for the Llanilid site. I am disappointed by the way you have sought to air your views with Welsh Ministers and Assembly Members, but in particular by your contact with one of our non-executive directors which I do consider inappropriate. However, you can be assured that we consider the issues you raise to be important. Cathryn Ross, our Director of Markets, has already written to you to invite you and your team to discuss your concerns in more detail and so I will not go into such detail in this letter.

However, I would first like to remind you that the inset appointment regime has been specified by Parliament, not by Ofwat. It is set out in the Water Industry Act 1991 and comprises a set of entitlements and duties on various parties. In particular, new entrants such as SSE Water are entitled to use the regime to serve new customers and to challenge the existing monopoly undertakers' methods of business. The primary legislation clearly enshrines these rights and does not envisage an abrogation of those rights simply because of a particular view of the number of small water companies that may or may not be desirable, or the administrative or regulatory burden on DWI, CCWater or Ofwat.

As you know we, the Government and the independent review team led by Professor Martin Cave are looking at the need for more flexible regulation of water and sewerage services in order to meet the challenges of the future. While the inset regime is being considered as part of this exercise and many of the points you make in your letter would be appropriately raised in this context, this in no way removes the existing rights and entitlements under which the specific proposal to grant an inset to Llanilid has been published.

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Also, while I note your concern that inset appointees will run their businesses without proper regard to the long-term requirements of asset maintenance, you can be assured that this is a matter for Ofwat to assess and police and not for the existing monopoly undertaker. Inset applications are thoroughly assessed and the applicants must accept their obligations and duties as well as rights. These are set out partly in law (as with all undertakers) and partly in the appointment conditions that we put in place just as we do for other appointees. If you have evidence to support your concerns in relation to SSE's specific application we would be happy to receive it as part of the consultation process.

You state that Ofwat must give careful thought to what views the future customers on the potential inset sites would have. Once again I can assure you that this is indeed done. In fact these customers are in a somewhat advantageous position in being able to have their views considered and having the opportunity to be served by a new player, in contrast to the customers of the existing monopoly providers who have no such opportunity.

Finally, I note your points about whether the site meets the 'unserved' criterion in respect of wastewater and your expectation of receiving further advice from your counsel. I also note your proposed new tariff that would unwind the cross-subsidy from new developments to old developments. We look forward to receiving your further views in a timely manner to enable us to consider them.

In conclusion, I agree that you have raised some important issues, which Cathryn and the team will take forward with you and with others, beginning in the New Year. In the meantime, however the existing legislation provides for the processing of inset applications by Ofwat. The regulatory regime is even handed in protecting consumers and given the appropriate safeguards that are in place, there does not appear to be any valid reason to delay the processing and, if appropriate, the granting of new appointments while wider policy considerations take place. Clearly the Cave review final report and subsequent proposals from Government on the structure of the industry will play an important part in that policy development. And I welcome your continued involvement in helping us examine these matters closely, for the benefit of all customers.

I am copying this to Jane Davidson at the National Assembly for Wales, to Tony Smith at CC Water in Birmingham and to Diane McCrea at CC Water for Wales.

Yours sincerely



Regina Finn