

Your Ref: W051_21/JA/377

Date: 5 November 2009

Mrs J Aston
Director of Water Regulation
Northern Ireland Authority for Utility Regulation
Queens House
14 Queen Street
BELFAST
BT1 6ER

Dear Jo

**DRINKING WATER INSPECTORATE'S (DWI) RESPONSE TO THE UTILITY
REGULATOR'S DRAFT DETERMINATION FOR WATER AND SEWERAGE PRICE
CONTROL 2010-2013**

Thank you for the opportunity to comment on the Draft Determination.

Through the partnership engagement that has been ongoing as this process has developed, there has been ongoing dialogue with DWI and that is to be welcomed, particularly as this is a new process being taken forwards for all the stakeholders involved.

The Inspectorate's response aims to make general observations rather than comment on specific matters of detail which will continue to be discussed with NIAUR/NI Water, as appropriate.

The Inspectorate recognizes that competing priorities exist and that it may be necessary for a time lag to exist in the delivery of certain work programmes but DWI's primary objectives for PC10 are to meet existing and future statutory obligations:

- to secure compliance with the standards set out in The Water Supply (Water Quality) Regulations (Northern Ireland) 2007;
- to introduce the requirement for wider catchment risk assessments and bring in a drinking water safety plan approach to safeguarding the quality of drinking water supplies through compliance with the Water Supply (Water Quality) (Amendment) Regulations (Northern Ireland 2009; and

- to facilitate the transition during the PC10 period for further regulatory driven programmes of work to be assessed to secure and maintain longer-term drinking water quality requirements. This will be of particular significance for supporting investment relating to drinking water quality in PC13.

Context

In contributing to this Price Control Process, DWI has sought to implement the guidance on the priorities and objectives relating to drinking water quality matters provided by the Department for Regional Development, as contained within the Draft Social and Environmental Guidance for Water and Sewerage Services that issued in March this year.

We have taken account of NI Water's Price Control 2010 Business Plan.

We have had regard to the views of consumers as reflected in the Guidance relating to the findings from the customer survey carried out by the Consumer Council. We have also taken into account monitoring data from the regulatory compliance monitoring programmes and the customer contact data about drinking water quality provided in information returns from NI Water to DWI.

The key drivers to secure drinking water quality for PC10 are:

- improvement to water treatment where current standards are not being met;
- continued investment in distribution mains that will improve the quality of water at the consumer's tap and improve the acceptability of drinking water, particularly its appearance;
- completion and implementation of drinking water safety plan strategies for the proactive management of risks to secure compliance with drinking water quality standards;
- continuation of the service reservoir rehabilitation programme; and
- strategic lead communication pipe replacement programmes.

We ask that the Utility Regulator pay due regard to these essential items in NI Waters' business plan.

Main Observations

Water Quality Programme – Overall Outcomes

We welcome the provision for the statutory drinking water quality programme contained within this Draft Determination and therefore consider that the delivery of this programme of work should be funded. We also welcome the introduction of a change control process for PC10 to manage changes in the investment programme which may give rise to delays in delivery outputs.

DWI has statutory mechanisms in place to support the delivery of improved drinking water quality to secure the safety of drinking water supplies. Water infrastructure and treatment upgrades have been identified in the Draft Determination and schemes need to complete. In addition to this, we welcome the inclusion of the completion of a study required at Killylane Water Treatment Works to assess future quality improvements to secure compliance.

Performance Indicators

PC10 output summary performance indicators for water treatment and distribution, notably: overall % mean zonal compliance (% MZC) and Operational Performance Indicator: turbidity, iron and manganese, % (OPI) (TIM) have been documented. We also note the need to have a clear baseline against which to monitor performance and gain a clear understanding of the links between this and any proposed expenditure. In undertaking any review of these targets it must be recognized that DWI will expect that NI Water will deliver the necessary regulatory compliance outputs.

It is also important that when such indicators are being used for the purposes of comparative regulation that they are put in proper context. These indicators were introduced by the Drinking Water Inspectorate for England and Wales in 2004 to reflect the performance of the water companies after many years of substantial investment in quality driven improvement programmes. There is not yet an equivalent situation here in Northern Ireland against which these direct comparisons can be made.

We note the high overall level of drinking water which is currently being delivered by NI Water. Continuing to secure safe drinking water quality is fundamental for Northern Ireland, thus we support the investment priorities necessary to maintain overall high quality water while at the same time continuing to address improving regulatory compliance across

Northern Ireland for key parameters such as trihalomethanes, iron, lead and aluminium.

Water Mains Improvement Programmes – Reducing Iron Levels in Water Distribution Systems

We welcome the continued investment to deliver new, replaced or relined mains over the PC 10 period. Drinking water quality investment plans need to address the condition of the distribution network. While we consider it is unclear what information is to be used to demonstrate the link between water mains activity and improvements to drinking water quality and the impact this would have on consumer service, it is important that the mains improvement programme is substantially funded to address distribution water quality issues. We would support the Utility Regulator's view that a link needs to be developed to fill this information gap, particularly to support investment in PC13. In the period of the delivery of the Strategic Business Plan, the prioritization on outputs has been principally on improving water treatment, particularly trihalomethane compliance. Now the focus on investment needs to move towards improving the performance of the distribution networks in the PC10 period and beyond. DWI will be progressing putting in place statutory mechanisms for non-trivial iron contraventions before the start of the PC10 period. Iron contraventions are mainly caused by the corrosion of older, cast-iron water mains and this may result in consumers receiving discoloured water. Consumer complaints and concerns data provided to DWI by NI Water for 2007 and 2008 report that over 60 per cent are related to appearance, of which over 65 per cent relate to discoloured water. DWI would encourage NI Water to pursue a review of all compliance, operational and consumer complaints and concerns information, together with other distribution information.

We would support the Utility Regulator's view that NI Water should quantify the extent of the water quality compliance problems and the level of investment necessary to address this in conjunction with DWI to allow a further planned programme of water quality improvements to be developed for PC13.

Securing Wholesome Water Supplies – Reducing Lead Levels in Drinking Water

We would ask that NI Water undertakes a review of its integrated package of measures to address risks to human health from exposure of lead in

drinking water. All the work carried out by NI Water to date has achieved a significant improvement in compliance with the interim lead standard of 25 µg/l since orthophosphate treatment was introduced at most of its water treatment works from 2004 onwards. The final lead standard of 10 µg/l has to be achieved by December 2013. We would welcome clarification on whether provision has been made for replacement of lead pipes on failure of a 10 µg/l standard when it comes into force in 2013. Regulation 17(9) of The Water Supply (Water Quality) Regulations (Northern Ireland) 2007 places a statutory requirement for NI water to modify or replace lead pipe(s) when investigations confirm its presence. Additionally, NI Water must advise the consumer of the situation and what he/she can do to minimize the risk to health from potential exposure to lead in the drinking water supply. This is a statutory requirement regardless of whether any other activities are likely or not to be carried out, i.e. replacement of consumer-owned lead pipe replacement. Therefore, we expect the Utility Regulator to ensure provision is made in the Final Determination for the replacement of lead pipes owned by NI Water, following detections above 10 µg/l.

Drinking Water Safety Plans – Risk Assessment

Risk assessments carried out by NI Water should identify any significant shortfalls in NI Water's management of risk to comply with drinking water quality standards. Developing a programme of integrated risk management using the drinking water safety plan approach will protect human health and minimize contamination of source waters, reducing/removing contamination through treatment processes and preventing contamination in the distribution systems. This is fundamental to maintaining and securing high levels of drinking water quality compliance and the management of any risks identified will be of particular significance for supporting investment in PC13.

Operating Expenditure Efficiencies

Regarding the allowance for the operating expenditure, in protecting the safety of drinking water quality it is difficult to evaluate the direct impact such proposed efficiencies could have on securing and sustaining drinking water quality. I am unclear as to what effect this may have on NI Water's ability to substantively continue with the necessary investigation, identification and implementation of corrective action to prevent recurrence of contraventions of regulatory standards, all of which could have regulatory enforcement implications. I am also concerned that there

may be an increase in the number of reported events which may be categorized as incidents if there are insufficient operational resources to prevent, and where necessary, manage such occurrences. DWI requires NI Water to proactively continue to provide sustainable operation and management strategies to proactively manage the operation of its treatment works and the distribution of its water supplies.

DWI will require that NI Water continues to deliver the required compliance requirements regardless of any reduction in its operating expenditure to mitigate against further regulatory action being progressed.

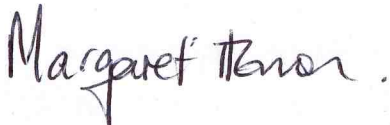
DWI Processes

Regulatory action will occur regardless of the Utility Regulator's final determinations on funding. DWI will continue to put in place appropriate statutory instruments as required to progress compliance.

I trust that you will consider these comments before arriving at your Final Determination.

I would be happy to discuss any of the issues as necessary.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Margaret Herron'.

Margaret Herron

(Acting) Chief Inspector of Drinking Water

Drinking Water Inspectorate

cc: John Mills, DRD