

# Joint Response by the Department of Jobs, Enterprise and Innovation/Enterprise Ireland/IDA Ireland to the CER's Consultation on the Water Charges Plan (CER/14/366)

August 2014



An Roinn Post, Fiontar agus Nuálaíochta  
Department of Jobs, Enterprise and Innovation



**ENTERPRISE  
IRELAND**  
where innovation means business



**IDA Ireland**

*The Department of Jobs, Enterprise and Innovation is charged with the development and implementation of government policy in the areas of enterprise, employment promotion, innovation, trade, the regulation of business and the protection of workers. Its mission is to support the creation of good jobs by promoting the development of a competitive business environment in which enterprises can operate to high standards and grow in sustainable markets. The focus of this submission is on the implications for enterprise.*

*Enterprise agency client companies in the internationally trading sectors accounted for three quarters of Ireland's exports of goods and services in 2012. Agency-assisted companies operating in Ireland provide approximately 300,000 direct jobs and a similar number of indirect jobs; 40 per cent of national Gross Value Added; and €40 billion in direct expenditure (payroll, materials and services purchases).*

## **Summary of the Key Issues for Enterprise**

- The Department of Jobs, Enterprise and Innovation (DJEI) and the enterprise agencies (IDA Ireland and Enterprise Ireland) welcome the opportunity to input to the CER's consultation on the water charges plan. We recognise that there is a significant domestic customer perspective to the water charges plan, but the focus of this submission is on the implications for enterprise.

### ***Water services needs of enterprise***

- The provision of competitively priced world class water services (water and waste water), at appropriate quality levels, is vital to support long term economic growth, to maintain and grow the broad enterprise base, to continue to attract high levels of foreign direct investment and retain and create jobs, particularly in key growth sectors such as food and drink, life sciences, ICT, construction materials and other manufacturing sectors.
- Although Ireland has made substantial investments in water and waste water infrastructure over the years, further significant investment is required to ensure Ireland can continue to meet enterprise needs. In particular, we recommend that Ireland takes a strategic medium to long term approach to investment planning that delivers quality water services while also ensuring that Ireland is cost competitive in a global context.
- While there are significant challenges in the near term, in the longer term, Ireland has the potential to make water services a competitive advantage in the attraction of mobile investment and to support the development of indigenous enterprise in water intensive sectors. It is critical that our water policy and regulatory framework are designed and implemented to ensure that we are on the right trajectory to deliver competitively priced world class water services in the longer term.

### ***Increasing efficiencies***

- As highlighted by the CER's economic consultants (NERA), experience from regulated water markets in the UK indicates that the scope for increasing efficiencies and reducing the costs of water services provision is greatest in the early years of economic regulation. According to NERA, on a unit cost basis, Irish Water's opex is around twice the UK average and about 25 per cent higher than Northern Ireland Water at a comparable stage of development. The CER's proposals to reduce operating and capital expenditure by 14 per cent by the end of 2016 are a good start, particularly in the absence of comprehensive historical data and the relatively short interim review period. However, to ensure the availability of competitively priced world class water services on a par with other countries with which we compete for trade and investment in the medium to longer term, Irish Water's targets to improve efficiencies and performance in future review periods need to be informed by the improvements achieved in other jurisdictions at comparable stages of development.
- Based on economic practice by economic regulators in water and other utilities, it would generally be expected that the CER would apply greater scrutiny to the prioritisation of capital projects by Irish Water and ensure that Irish Water engages fully with stakeholders when formulating its business plan prior to submission to the CER.
- Like the CER, DJEI and the enterprise agencies believe that it is critically important to set clear and observable customer service levels to ensure that Irish Water delivers genuine efficiency savings. We believe this provides a compelling reason for the CER to mandate Irish Water to start collecting baseline input and output performance indicators as soon as possible. To that end, we strongly recommend that Irish Water is required to provide the complete set of

performance indicators identified by NERA in time to inform the first full review period (2017-2022). Benchmarking Irish Water's performance against the performance of water companies in England, Wales, Scotland and Northern Ireland and other relevant countries/regions is essential to underpin the rigorous regulatory scrutiny required to drive for efficiencies in water services provision and to support economic growth and job creation.

### ***Improving quality of service***

- Irish Water needs to meet high customer expectations. We do acknowledge that the service standards required have to be tailored to fit to the water sector according to its stage of network development. However, the CER needs to ensure that the service levels required of Irish Water take account of changing circumstances as the network is upgraded and the investments work through the system and put Ireland on the right trajectory to achieve its long term water services goals.
- While the CER acknowledges the need for separate codes of practice for domestic and non-domestic water users, there remains little distinction between the domestic and non-domestic codes of practice as set out in the revised Customer Handbook. Water is a vital input to the provision of products and services across the economy and plays a critically important role in supporting economic growth and retaining and creating jobs. We acknowledge that Irish Water is at an early stage of development as the water utility; however the Customer Handbook for non-domestic users remains vague and lacks clarity on the standards of service required to meet business needs in the short term. In particular, the CER needs to revisit the complaint handling and dispute resolution measures in place during the interim period. In addition, the handbook needs to include a section to deal with business development requirements as recommended by the enterprise agencies in their May submission on the issue. The CER needs to ensure that its proposal to allow only 75 per cent *ex ante* funding of the capital expenditure programme and allow recovery of additional expenditures in the next period does not lead to price volatility in future review periods.
- We welcome Irish Water's proposal to consult with non-domestic customers. However, its stakeholder engagement plan was not published as expected for consultation as part of this consultation process. We note that the CER now intends to publish it for information in due course. We recommend that as originally planned it should be published for consultation to ensure that the stakeholder engagement is meaningful. In particular, it is important from an enterprise and job creation perspective that Irish Water consults a cross-section of business users in terms of water usage, sector and geographical location.

### ***Enduring tariff framework for non-domestic users***

- We support the CER's proposal to retain the existing non-domestic tariff arrangements until at least the end of 2015 as it would not be advisable to design the new tariff framework in the absence of full information on existing arrangements across the local authorities.
- That said, it is critical that certainty is provided sooner rather than later on when the consultation on the enduring tariff framework will take place. We recommend that the CER publishes the timelines for consultation on the enduring tariff framework no later than the end of 2014 as is critical that non-domestic users get significant advance notice of the timelines to develop the tariff framework. We also strongly recommend that the CER allows time for significantly longer consultation periods than was possible for this consultation and earlier ones in April/May. Clarity is also required on the timing of the consultation on the connection charging policy.

The Department of Jobs, Enterprise and Innovation (DJEI) and the enterprise agencies (IDA Ireland and Enterprise Ireland) welcome the opportunity to input to the consultation by the Commission for Energy Regulation (CER) on the water charges plan (CER/14/366). We recognise that there is a significant domestic customer perspective to the water charges plan, but the focus of this submission is mainly on the implications for enterprise.

Ireland's economic growth depends on the ability of businesses to trade successfully in increasingly competitive global markets. The availability of a competitively priced world class infrastructure (energy, telecoms, transport, waste and water) and related services is essential to support enterprise development, competitiveness and job creation.

The provision of reliable, competitively priced water services (water and waste water), at appropriate quality levels, is critical to support economic growth and maintain and create jobs.

### **Importance of water services for enterprise development**

Water services play a key role in supporting economic activity and job creation, particularly in key growth sectors such as food and drink, life sciences, ICT, construction materials and other manufacturing sectors<sup>1</sup>. In particular, enterprise needs access to secure, competitively priced, quality water services:

- Water is an important input to many business processes. We need to ensure that water and waste water services are competitively priced in a global context;
- Although Ireland has made substantial investments in water and waste water infrastructure through successive water services investment programmes, further investment is required to ensure that Ireland can continue to meet enterprise needs. In particular, we need a strategic medium to long term approach to investment planning that delivers an adequate supply of quality water services while also ensuring that Ireland remains cost competitive. Irish Water needs to drive for efficiencies in the delivery of water services – in particular, it needs to ensure that operating, maintenance and capital cost in Ireland are brought into line with international best practice;
- While drinking water quality in Ireland is generally high, a continued focus on ensuring it remains so is required as contamination of water supplies can have a major impact on enterprise, particularly in the food and biopharma sectors; and
- We also need to ensure that other quality and reliability measures of particular relevance to enterprise are monitored and improved where necessary. These include minimising disruptions to service and ensuring minimum pressure levels.

We strongly support the reform of water services provision in Ireland. The timely implementation of the water reform plans, including the development of an effective economic regulatory framework, is critical to deliver the adequate supply of competitively priced, quality and reliable water services required to support enterprise development and job creation.

### ***Water pricing framework***

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<sup>1</sup> In 2008, Forfás assessed Ireland's performance in meeting the water and waste water needs of enterprise, in terms of capacity, costs and quality for the National Spatial Strategy gateways and hubs. See: [www.forfas.ie/publication/search.jsp?ft=/publications/2008/Title,1361,en.php](http://www.forfas.ie/publication/search.jsp?ft=/publications/2008/Title,1361,en.php)

One of the key issues for enterprise is to ensure that businesses have access to competitively priced water and waste water services. Under the existing regime, water and waste water charges vary considerably across the country - from a combined charge of €1.59 per cubic metre in Kildare to €3.04 in Wicklow.

From an enterprise perspective, the key principles that should underpin water pricing policy are<sup>2</sup>:

- All users should pay for water services i.e. the user pays principle should be central to water pricing policy;
- Water and waste water charges should be fully cost reflective and passed on to all customers in a fair and transparent manner;
- Irish Water needs to drive for efficiencies in the delivery of water services – in particular, it needs to ensure that operating, maintenance and capital expenditure in Ireland are brought into line with international best practice;
- In line with the EU Water Framework Directive and the Water Services (No.2 ) Act 2013 on the recovery of costs, there should be no cross-subsidisation of domestic water charges by non-domestic users, and vice versa;
- It will be important that while the Government sets water pricing policy, that the regulator is independent in the performance of its duties. Regulatory independence is fundamental to regulatory certainty. Regulatory uncertainty leads to higher investor risk, more expensive capital and ultimately higher costs for end users; and
- A range of indicators to benchmark Ireland's water services performance against competitor/comparator countries needs to be developed to ensure that cost competitiveness is embedded as a core objective by Irish Water.

## **Feedback on the water charges plan consultation**

DJEI and the enterprise agencies welcome the opportunity to participate in the consultation process on the water charges plan for the interim review period to the end of 2016. Of particular importance from an enterprise and competitiveness perspective is the strong focus on driving for efficiencies in the provision of water services in Ireland. The extensive benchmarking exercises that have been undertaken by the CER to inform the allowed revenue for Irish Water during the interim review period are very welcome. Benchmarking Irish Water's performance against the performance of other water companies is essential to underpin the rigorous regulatory scrutiny required to ensure the delivery of competitively priced water services, at appropriate quality levels.

DJEI and the enterprise agencies strongly support the CER's proposals to reduce capital and operating expenditure by an annualised seven per cent in 2015 and 2016. We are also in full agreement with the CER on the importance of setting clear and observable customer service levels to ensure that Irish Water delivers genuine efficiency savings. To that end, we strongly recommend that Irish Water is required to provide the complete set of performance indicators identified by the consultants (NERA) in time to inform the first full review period (2017-2022).

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<sup>2</sup> See also the enterprise agencies' submission to the CER consultation on Interim and Enduring Non-Domestic Water and Wastewater Tariff Proposals (CER/14/084).

Irish Water needs to meet high customer expectations. We do acknowledge that the service standards required have to be tailored to fit to the water sector according to its stage of network development. However, the CER needs to ensure that the service levels required of Irish Water take account of changing circumstances as the network is upgraded and the investments work through the system and put Ireland on the right trajectory to achieve its long term water services goals. While we acknowledge that Irish Water is at an early stage of development as the water utility, the Customer Handbook for non-domestic users remains vague and lacks clarity on the standards of service required to meet business needs in the short term. In particular, the CER needs to revisit the complaint handling and dispute resolution measures in place during the interim review period. In addition, the handbook needs to include a section to deal with business development requirements as recommended by the enterprise agencies in their May submission on the issue.

The remainder of the paper will address the specific questions of relevance to enterprise in the CER's consultation paper.

***Q2. Are there any other methods to evaluate Irish Water's proposed capital expenditure that you feel would be more appropriate and why?***

***Q3. Do you agree with the CER's proposals for Irish Water's capital expenditure? If not, please identify specific areas that should be treated differently and outline your reasoning.***

Although Ireland has made substantial investments in water and waste water infrastructure through successive water services investment programmes, further investment is required to ensure that Ireland can continue to meet enterprise needs. In particular, we need a strategic medium to long term approach to investment planning that delivers an adequate supply of quality water services while also ensuring that Ireland remains cost competitive.

Rigorous regulatory scrutiny to drive for efficiencies in water services provision is critical for Ireland's cost competitiveness and the ability of the internationally trading sectors to compete successfully in global markets. We welcome the benchmarking exercise that has been undertaken by the CER to determine the appropriate level of capital expenditure efficiencies for Irish Water during the interim period.

We note that the CER's review of the interim capital investment plan found that there is demonstrable need for the projects proposed by Irish Water but that there is scope to deliver the programme at a lower cost than that proposed by the water utility. Based on economic practice by economic regulators in water and other utilities, it would generally be expected that the CER would apply greater scrutiny to the prioritisation of capital projects by Irish Water and ensure that Irish Water engages fully with stakeholders when formulating its business plan prior to submission to the CER.

Economic regulators in other jurisdictions are increasingly requiring water companies to engage in greater consultation with stakeholders, including, non-domestic customers when developing their business plans including capital expenditure programmes. Generally in Australia, Scotland and now England and Wales companies are required to hold customer fora and to explain and receive input on the business and capital expenditures plans prior to formal submission to the authorities (see example given in the textbox below).

We recommend that the CER ensures that processes are put in place to ensure that customers and stakeholders have a say in Irish Water's business plans for each given review period, and particularly in relation to the prioritisation of investments.

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**Textbox: Capital expenditure and stakeholder consultation in Melbourne**

For example, Melbourne Water is required to consult extensively with its customers, regulators and stakeholders in relation to its expenditure proposals for each period. Broadly, the proposed outcomes and associated expenditures are supported by customers, regulators and stakeholders. The result was that proposed capital expenditure over the 2013 water plan period was AUS\$2,457 million. This was AUS\$1,517 million less than the actual and forecast investment in the 2008 and 2009 water plan periods, following the completion of several major capital projects reflecting a significant prioritisation process, undertaken in consultation with customers, regulators and stakeholders.

While preparing its 2013 water plan, Melbourne Water consulted extensively with its customers, regulators and stakeholders to prioritise investments - resulting in the deferral of some expenditure - and to find efficiencies. This has resulted in several refinements to proposed expenditure.

In relation to its water and sewerage expenditure, Melbourne Water held several consultation sessions with the water retailers (both metropolitan and regional) in September, October and November 2011. While all outcomes and associated expenditures were presented, feedback was specifically sought on growth-related expenditures.

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We strongly support the CER's focus on ensuring that the planned capital investment during the interim period is cost effective and agree with the CER's proposal to reduce all non-committed capital expenditure (excluding capital maintenance) by seven per cent annually in 2015 and 2016. However, to ensure the availability of competitively priced world class water services on a par with other countries with which we compete for trade and investment, Irish Water's targets to improve efficiencies and performance in future review periods need to be informed by the improvements achieved in other jurisdictions at comparable stages of development.

We also support the CER's proposal not to cut Irish Water's planned spend on capital maintenance during the interim review period but to monitor any expenditure made to ensure that only efficiently incurred costs are allowed.

However, we recommend that the CER gives additional consideration to the implications of the proposal to allow only 75 per cent *ex ante* funding of the capital expenditure programme and allow recovery of additional expenditures in the next period. There is a danger that this approach will exaggerate the price hike in the next review period (2017-2022). It would be useful if the CER could model the 'worst case' resulting price delta. From the information provided in the consultation document, the 25 per cent adjustment reduces capital expenditure by €475 million (based on 2013 prices). This could potentially lead to significant carry-over expenditure in the next review period if the 75 per cent level is exceeded.



There are always uncertainties about the appropriate outputs a company should deliver and the expenditure requirements that will be needed over a price control period to ensure delivery. In terms of the CER's proposal to adopt an uncertainty mechanism to address any change in connection policy during the interim review period, we recommend that the CER consults on the proposed mechanism. In determining the appropriate uncertainty mechanism to adopt, the CER needs to consider the following fundamental principles:

- provide an evidence-based evaluation of the justification and drawback of the proposed uncertainty mechanism;
- Irish Water should not be protected against all forms of uncertainty because it is for the company to manage its risks. Instead, the CER should limit the use of an uncertainty mechanism to instances in which Irish Water will deliver value for money for existing and future consumers while also protecting the ability of Irish Water to finance efficient delivery; and
- the CER should aim to introduce uncertainty mechanisms that reduce volatility and give predictability in charges to both domestic and non-domestic customers.

In addition, experience from utility regulation elsewhere would suggest that any uncertainty mechanism introduced should be transparent, avoid unnecessary complexity and encourage timely delivery on the basis of appropriately incentivised cost efficiencies.

***Q4. Do you agree with Irish Water's approach to prioritisation? If not, please set out your views on an alternative approach to this matter?***

***Q5. Do you agree with the need for an output monitoring group which will provide a forum for considering investment priorities, monitoring Irish Water's performance, and holding Irish Water to account in relation to capital expenditure?***

***Q6. Do you agree with the need for further consultation on the approach to monitoring the delivery of capital projects?***

As stated in response to Q2-Q3 above, informed by best economic regulatory practice elsewhere in water and other utilities, the CER needs to apply greater scrutiny to the prioritisation of capital projects by Irish Water and ensure that Irish Water engages fully with stakeholders when formulating its investment plan prior to its submission to the CER (see response to Q2-Q3 above for more detail).

We share the CER's view that there is potential tension between the economic and environmental regulatory requirements, particularly in the context of how to prioritise capital projects. In previous submissions to the CER and the Department of the Environment, Community and Local Government (DECLG) on water sector reform issues, we highlighted the need to consider the relationship between the economic regulator (CER) and the environmental regulator (EPA).

For example, conflicts may arise where environmental regulations imply significant additional investment needs that will result in substantial price increases for users. In England and Wales, a memorandum of understanding has been developed between Ofwat and the Environmental Agency to provide clarity regarding roles and responsibilities and to avoid



conflict between the two regulators. It sets out how the regulators will work with one another. We recommend that a similar agreement should be developed between the CER and the EPA.

Water is a vital input to the provision of products and services across the economy and plays a critically important role in maintaining and growing our existing export base, in continuing to attract high levels of foreign direct investment and retaining and creating jobs.

From an enterprise perspective, it is critically important that Ireland takes a strategic medium to long term approach to investment planning that delivers reliable and quality water services while also ensuring that Ireland is cost competitive. In the short term, we broadly support the priorities identified by Irish Water in its 2014-2016 capital investment plan. The main water investment priorities to support economic growth and job creation are:

- ◆ Ensuring sufficient water services capacity in Dublin to meet future demand: As Ireland's only city of international scale, it is essential that Dublin has a sufficient supply of competitively priced reliable, quality water and waste water treatment capacity to meet future demand. It is critically important that the current water services constraints in the Dublin are addressed urgently;
- ◆ Delivering water services to support regional development policy: Promoting enterprise development and job creation at regional level is a Government priority. Irish Water needs to deliver sufficient capacity to support residential and enterprise expansion plans and new developments. In particular, providing the required water services capacity and quality levels in enterprise agency strategic sites and business parks and to strategic development zones should be prioritised; and
- ◆ Reducing leakage: Given the capacity deficits in many centres and the limited funds available for capital investment in water services, prioritising investment to reduce leakage will increase the volume of water available to meet demand without necessitating significant capital investment in new water treatment capacity.

Given the importance of reliable, competitively priced water services, at appropriate quality levels to support enterprise development and maintain and create jobs, we believe that there should also be an enterprise focus to the prioritisation and delivery of capital projects. We would be happy to discuss this further with the CER and DECLG.

We support the establishment of an Output Monitoring Group to inform investment priorities, monitor Irish Water's performance, and hold Irish Water to account in the execution of its functions.

One of the key challenges for the CER in regulating Irish Water is to ensure that any cost savings in expenditure are not realised at the expense of outputs. We believe this provides a compelling reason for the CER to mandate Irish Water to start collecting baseline input and output performance indicators as soon as possible.

As recommended by the CER's economic consultants (NERA), we believe that the CER needs to set out a timetable for data collection and the development of key performance indicators to

ensure that a complete performance baseline is in place before the first full review period (2017-2022). The development of the performance monitoring framework as soon as possible is also critical to enable the CER to effectively oversee Irish Water's delivery of the capital investment programme during the interim review period. NERA has identified a number of indicators in areas with scope for fast improvement where the collection of baseline data should be feasible over the interim review period – these include waste water treatment compliance, drinking water quality, leakage, pressure levels, interruptions to supply and customer service. We recommend that the CER requires Irish Water to collect and report this initial set of indicators from Q1 2015, with the other indicators collected by Ofwat (England and Wales), and the Scottish and Northern Irish water regulators added in time to inform the first full review.

We agree with NERA that the Output Monitoring Group should meet quarterly to assess Irish Water's progress on its expenditure and service improvement programmes against the agreed output measures and to ensure transparency and accountability in the provision of water services in Ireland.

In light of the consideration already given to the approach to monitoring the delivery of capital projects in the water charges plan consultation documentation, we do not believe that further consultation on the issue is needed.

***Q7. Are there any other methods to evaluate Irish Water's proposed opex that you feel would be more appropriate and why?***

***Q8. Do you agree with the CER's proposals for Irish Water's opex? If not, please identify specific areas that should be treated differently and outline your reasoning.***

Rigorous regulatory scrutiny to drive for efficiencies in water services provision is critical for Ireland's cost competitiveness and the ability of the internationally trading sectors to compete successfully in global markets. We welcome the benchmarking exercise that has been undertaken by the CER to determine the appropriate level of operating expenditure efficiencies for Irish Water during the interim period.

As highlighted by NERA, experience from regulated water markets in the UK indicates that the scope for increasing efficiencies and reducing the costs of water services provision is greatest in the early years of economic regulation. According to NERA, on a unit cost basis, Irish Water's opex is around twice the UK average and about 25 per cent higher than Northern Ireland Water at comparable stages of development.

DJEI and the enterprise agencies strongly support the CER's proposals to reduce operating expenditure by 14 per cent by the end of 2016. While it is a good start for this relatively short interim review period, continued efforts will be required post 2016 to bring Ireland's operating costs into line with other jurisdictions, such as England, Wales, Scotland and Northern Ireland.

***Q10. Do you agree with the CER's proposals regarding the treatment of depreciation and asset categories/lives? If not, please specify any alternatives that you would consider more appropriate and why.***

The approach to determining the opening Regulated Asset Base (RAB) appears to be reasonable. It is important that as proposed in the water charges plan, the expenditure included in the opening RAB will be subject to the CER's decision on whether the costs relating to new operating expenditure and establishment have been incurred efficiently. We note that the value of the metering programme and the liabilities from the local authorities to be included in the opening RAB have been determined by DECLG.

***Q11. Do you agree with the CER's approach to setting Irish Water's allowed rate of return? Please state your reasons.***

***Q12. Do you agree with our proposed cost of debt uncertainty mechanism? Please state your reasons.***

We agree with the CER's approach to setting the allowed rate of return for Irish Water. The method used is a standard one in economic regulation.

We believe that it is reasonable to use an approach consistent with the CER's recent decisions on the allowed rate of return in the energy markets. We also agree with the CER that the allowed rate of return should reflect the lower cost of debt following improvements in market conditions.

The resulting figure of 5.1 per cent is slightly below that imposed by the CER on ESB networks (5.2 per cent) in energy and substantially below that requested by Irish Water (6.5 per cent). The proposed allowed rate of return by the CER is about one per cent higher than those emerging from UK regulators – for example Ofwat's provisional number for water companies in England and Wales and the most recent decisions of Ofgem and the Competition Commission in the energy sector. However, these are based on observations in different capital markets. Accordingly, we believe that the allowed rate of return seems acceptable.

In light of the uncertainty acknowledged by the CER in relation to Irish Water's future financing costs, we believe that it is reasonable to review the allowed rate of return for the second year of the interim review period (i.e. from October 2015).

***Q13. Do you agree with our proposed approach to incentivising improvements in quality and customer service? Are there any other aspects of Irish Water's customer service that you would expect to see covered in the proposed reporting and incentive mechanism?***

As stated previously, we agree with the CER that it is critically important that it sets clear and measureable quality and customer service levels to ensure that Irish Water delivers genuine efficiency savings that can be measured against a defined and tangible set of improvements for all water customers. As highlighted in the consultation documentation, significant service level improvements were achieved in England and Wales, Scotland and Northern Ireland following the establishment of water utilities.

DJEI and the enterprise agencies strongly support the CER's proposal to implement a similar framework of performance metrics in Ireland. As previously stated in response to Q4-Q6 above, we believe that the CER needs to set out a timetable for data collection and the development of key performance indicators to ensure that a complete performance baseline is

in place before the first full review period (2017-2022). NERA has identified a number of indicators in areas with scope for fast improvement where the collection of baseline data should be feasible over the interim review period. We recommend that the CER requires Irish Water to collect and report this initial set of indicators from Q1 2015, with the other indicators collected by Ofwat (England and Wales), and the Scottish and Northern Irish water regulators added in time to inform the first full review.

As previously stated, we agree with NERA that the Output Monitoring Group should meet quarterly to assess Irish Water's progress on its expenditure and service improvement programmes against the agreed output measures and to ensure transparency and accountability in the provision of water services in Ireland.

According to the CER, it has already defined a number of minimum commitments in the Customer Handbook published in July following consultation earlier in the year. However, as mentioned above, we believe that the commitments made in respect of non-domestic water customers in the revised Customer Handbook (which are to come into effect on the 1<sup>st</sup> October 2014) need to be revisited to ensure that business needs are adequately met in the immediate term.

Irish Water needs to meet high customer expectations. We do acknowledge that the service standards required have to be tailored to fit to the water sector according to its stage of network development. However, the Customer Handbook for non-domestic users remains vague and lacks clarity on the standards of service required in respect of non-domestic customers in the immediate term.

We strongly recommend that the CER gives further consideration to the non-domestic codes of practice and consults again on the more detailed proposals in due course. In particular, the CER needs to revisit the complaint handling and dispute resolution measures in place during the interim period as well as the penalties to apply for non-compliance. In addition, the handbook needs to include a section to deal with business development requirements as recommended by the enterprise agencies in their May submission on the issue (CER/14/086).

In setting service standards and performance targets for the immediate term, it is important to remember that Scottish Water, for example, was also seen to be behind the curve in terms of service provision and investment compared to English and Welsh water companies prior to the instigation of a road map for market reform from 2006 onwards<sup>3</sup>. We therefore recommend that Irish Water's code of practice for non-domestic users should include a similar range of service standards and compensation levels as are in place in Scotland.

We would also encourage the CER to consider introducing an explicit link between the approved tariff level and the quality of service provided when the enduring tariff framework is

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<sup>3</sup> [http://www.business-stream.co.uk/sites/default/files/100506\\_Our\\_service\\_standards\\_FINAL.pdf](http://www.business-stream.co.uk/sites/default/files/100506_Our_service_standards_FINAL.pdf)

fully in place as was introduced by the Commission for Aviation regulation when airport charges at Dublin airport were reviewed in 2009<sup>4</sup>.

The same code of practice for communication applies to both domestic and non-domestic customers included in the handbook. As mentioned in the enterprise agencies' May submission, some agency client companies have complained about a lack of information about what is happening to how water services are provided and what that means for them. We are aware that the Irish Water's website provides information for business customers. However, we believe that Irish Water needs to engage directly with non-domestic customers as quickly as possible to apprise them of what the recent reforms mean for them at a practical level and ensure that business needs are effectively addressed (e.g. requests for additional capacity to grow their business).

The local authorities had in place an email alert system that allowed them to notify non domestic customers directly of any issues/developments of relevance to them (e.g. planned outages). We strongly recommend that Irish Water uses this database to improve communications and awareness and keep businesses informed of developments and update them on the new arrangements for engagement on various issues such as billing, business development planning, service provision issues etc. There should also be a facility on the business section of the Irish Water website for new water users to sign up for the email alerts.

Given the concerns raised by enterprise, we welcome Irish Water's proposal to consult with non-domestic customers. However, its stakeholder engagement plan was not as expected published for consultation as part of this consultation process. We note that the CER now intends to publish it for information in due course. We recommend that as originally planned it is published for consultation to ensure that the stakeholder engagement is meaningful. In particular, it is important from an enterprise and job creation perspective that Irish Water consults a cross-section of business users in terms of water usage, sector and geographical location.

Given the importance of reliable, competitively priced water services, at appropriate quality levels to support enterprise development and maintain and create jobs, it is critical that the minimum standards required of Irish Water in respect of non-domestic customers are revisited to ensure that business needs are adequately met in the immediate term. We would welcome the opportunity to discuss this further with the CER.

***Q15. Do you have any comments on the CER's proposals to monitor Irish Water?***

We support the establishment of an Output Monitoring Group to inform investment priorities, monitor Irish Water's performance, and hold Irish Water to account in the execution of its functions. As highlighted by NERA, we believe that the CER needs to set out a timetable for data collection and the development of key performance indicators to ensure that a complete performance baseline is in place before the first full review period (2017-2022).

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<sup>4</sup> Each quarter, the regulator publishes the quality of service monitoring at Dublin airport report. It includes thirteen service measures. The targets are set according to the average score achieved by Dublin airport between Q1 2006 and Q2 2009. The reports are available at: <http://www.aviationreg.ie/regulation-of-airport-charges-dublin-airport/compliance-papers.123.html>

We agree with NERA that the Output Monitoring Group should meet quarterly to assess Irish Water's progress on its expenditure and service improvement programmes against the agreed output measures and to ensure transparency and accountability in the provision of water services in Ireland.

In light of the consideration already given to the approach to monitoring Irish Water's performance in the water charges plan consultation documentation, we do not believe that further consultation on the matter is needed.

See also our detailed response to Q2-Q6 on the CER's proposed approach to monitoring Irish Water.

***Q34. Do you agree with Irish Water's proposals regarding non-domestic water and wastewater charges? If not, please set out reasons for your position and propose alternatives where possible.***

***Q35. Do you agree with the CER's views regarding Irish Water's proposals? If not, please set out the reasons for your position and propose alternatives where possible.***

While there are significant challenges in the near term, in the longer term, Ireland has the potential to make water services a competitive advantage in the attraction of mobile investment and the development of indigenous enterprise in water intensive sectors. It is critical that our water policy and regulatory framework are designed and implemented to ensure that we are on the right trajectory to deliver competitively priced world class water services in the longer term.

#### ***Non-domestic charges***

We support the CER's proposal to retain the existing non-domestic tariff arrangements until at least the end of 2015 as it would not be advisable to design the new enduring tariff framework in the absence of full information on existing arrangements across the local authorities. That said, it is critical that certainty is provided sooner rather than later on when the consultation on the enduring tariff framework will take place. Non domestic customers also require greater certainty on when the new tariff framework will come into effect.

We strongly recommend that the CER publishes the timelines for consultation on the enduring tariff framework no later than the end of 2014. It is critical that non-domestic users get significant advance notice of the timelines to develop the enduring tariff framework and that the CER allows time for significantly longer consultation periods than was possible for this consultation and the earlier ones in April/May.

In developing the new tariff framework, the CER and Irish Water need to be very cognisant of the impact on business customers. We strongly believe that the transition from the existing arrangements for non-domestic customers to the enduring tariff framework should be done over a sufficiently long period of time to minimise the impact of any potentially negative changes on businesses' water bills. In addition, the CER needs to give non-

domestic customers significant advance notice of the changes before they come into effect and minimise volatility in changes to their water bills and provide clarity on the expected trends over a 3-5 year timeframe. Minimising volatility in water prices is particularly important in water intensive sectors like food and drink, life sciences, ICT, construction materials and other manufacturing sectors which are under pressure to remain competitive in international markets. Providing certainty and clarity on future price trends is also vital for strategic and operational planning.

### ***Non-domestic disputes***

We recommend that the CER revisits its proposal not to make a determination on disputes relating to non-domestic customer tariffs and/or associated arrangements (section 4.20.2 of the consultation paper).

As stated in our response to Q13 above, the availability of reliable, competitively priced, water services, at appropriate quality levels is critically important to support enterprise development and maintain and create jobs. The CER needs to revisit the complaint handling and dispute resolution measures in place for non-domestic customers during the interim review period to ensure that business needs are adequately met in the immediate term. In particular, the CER and Irish Water need to clearly set out the process for dealing with non-domestic customer tariff related disputes from the 1<sup>st</sup> October 2014.

### ***Individual agreements***

The CER is proposing a moratorium on individual agreements until Irish Water has provided the necessary information on existing arrangements across the local authorities. According to the CER, this information will not be available until early 2015. We are not in favour of the introduction of a moratorium on individual contracts in the interim as we are concerned that it would make Ireland less attractive for new mobile investment in water intensive sectors like food and drink, life sciences, ICT, construction materials and other manufacturing sectors. We strongly recommend that the CER retains the existing approach until the new tariff arrangements are put in place. This would be consistent with the CER's policy to maintain existing arrangements for non-domestic tariffs and connection charges until the new arrangements are in place. We are supportive of the new tariffing arrangements being put in place at the earliest opportunity, subject to sufficient advance notice and consultation periods.

### ***Payment options***

We agree with the proposal that payment options and terms for non-domestic water customers should remain unchanged until the new tariff framework is in place unless a non-domestic customer requests to move onto Irish Water's proposed payment terms and conditions when it migrates to its billing system.

### ***Progression to the enduring non-domestic tariff framework***

As stated above, we are strongly of the view that the CER should publish the timelines for consultation on the enduring tariff framework no later than the end of 2014.



See also our response under *non-domestic charges* above.

We welcome Irish Water's proposal to consult with non-domestic customers. However, its stakeholder engagement plan was not published for consultation as planned as part of this consultation process. We note that the CER intends to publish it for information in due course. We recommend that it is published for consultation as originally planned to ensure that the stakeholder engagement is meaningful. In particular, it is important from an enterprise and job creation perspective that Irish Water consults a cross-section of business users in terms of water usage, sector and geographical location.

***Q38. Do you agree with Irish Water's proposal regarding discounts for non-domestic customers for water that is determined as unfit for human consumption? If not, please set out the particular aspects of the proposal which you do not agree with and the reasons for your views. Please propose an alternative approach if you are in a position to do so.***

***Q39. Do you agree with either of the proposed definitions of long term, i.e. three months or six months?***

***Q40. In your opinion, how should Irish Water determine an appropriate discount for non-domestic customers receiving water that is unfit for human consumption? The CER welcomes evidence regarding water use by differing industries from respondents.***

It is efficient and accepted practice for water companies around the world to provide and to charge for non-potable water, i.e. water unsuitable for drinking, to non-domestic customers for industrial purposes and irrigating agriculture. However in such cases the prices charged to non-domestic customers should differ significantly from the price charged for potable water.

In England, Wales and Scotland, generally the volumetric charge for non-potable water is lower than the unit charge for potable water because it excludes the cost of treating the water to drinking water standard. Prices vary according to the tariffs set under the regulated charge control in each water company's region and the potable water tariff tends to vary depending on the level of water consumption by non-domestic users – but not by industry type. Also, in Wales, for example, there are two categories of non-potable water charges – partial treatment and raw water.

The current proposals by Irish Water and the CER on charges for non-potable water for non-domestic users are quite high level, which is to be expected at this stage given that detailed analysis to underpin the new enduring tariff framework has yet to be undertaken. We recommend that the CER reviews best practice in Ireland's competitor and comparator countries as part of the consultation on the enduring non-domestic tariff framework to inform its proposals for non-potable water tariffs.

We recommend that the approach to non-potable water charges for non-domestic customers should be consistent with the approach to potable water charges. Reflecting the previously mentioned pricing principles, we believe that it is important that non-potable water charges are based on the specific costs of supplying it rather than on an arbitrary discount rate.

***Q41. Do you agree with Irish Water's proposals as outlined regarding domestic and non-domestic connection charges? If not, please outline the reasons for your views and propose an alternative approach if you are in a position to do so.***

Since the 1<sup>st</sup> January, the local authorities are no longer responsible for levying development contributions for water services for non-domestic customers. As highlighted in the enterprise agencies' May submission, this led to uncertainty among water users. We welcome the clarity in the consultation paper that the arrangements in place prior to the 1<sup>st</sup> January 2014 will remain in place until the CER approves the new connection charging policy.

However we recommend that the CER confirms the timeline for consultation on the connection charging policy when it publishes the approved water charges plan. In its information note of 16<sup>th</sup> May (CER/14/109), the CER undertook to publish the timeline for consultation in June and said its intention was to hold the consultation in Q4 2014. The ongoing uncertainty over the future connection charging policy makes it difficult for businesses in the process of developing new facilities/ plants, which would contribute to economic activity and jobs, to plan with any degree of certainty.

As with tariff related disputes, we recommend that the CER reconsiders its proposal not to make a determination on customer disputes (domestic and non-domestic) relating to connection charges and/or associated arrangements (section 4.24 of the consultation paper) and ensures that business needs are adequately met in the immediate term. In particular, the CER and Irish Water need to clearly set out the process for dealing with customer disputes on connection charges or related issues from the 1<sup>st</sup> October 2014.

***Q42. Do you agree with Irish Water's proposals as outlined regarding charges for additional services to domestic and non-domestic customers? If not, please outline the reasons for your views and propose an alternative approach if you are in a position to do so.***

We agree with the CER's proposal to review current arrangements for additional services as part of the development of an enduring tariff framework for non-domestic customers.

***Domestic water charges***

As stated previously, we recognise that there is a significant domestic customer perspective to the water charges plan, but in light of our remit, the focus of this submission is mainly on the implications for enterprise. That said, the issues we highlight in this submission around good economic regulatory practice are equally important to provide domestic customers with quality water services at an affordable price. In particular, it is important that the regulatory framework and codes of practice are transparent and as simple as possible.