

By Email

Commission for Energy Regulation
The Exchange
Belgard Square North
Tallaght
Dublin 24

3rd September 2014

RE: EPA Submission on Water Charges Plan Consultation CER/14/366

Dear Sir/Madam,

The Environmental Protection Agency (EPA) has reviewed the CER's Water Charges Plan Consultation paper and welcomes the opportunity to make the following comments;

1. Capital Expenditure - Prioritisation Approach¹

The EPA's submission of 5th June 2014 on Irish Water's Proposed Capital Investment Plan 2014 – 2016, identifies the drinking water and waste water schemes that the EPA regards as priorities for capital investment. While we acknowledge the challenges facing Irish Water, there is a significant shortfall between the priority schemes we have identified and those schemes listed in the CIP. Furthermore, the CIP lacks details of timeframes for commencement and completion of the listed schemes.

In the context of this two year CIP, Irish Water needs to develop a pathway towards achieving compliance with national and European legislation relating to water, and in particular the Drinking Water Directive and the Urban Waste Water Treatment Directive. A significant amount of water services investment will be required over the coming years to achieve environmental compliance. The benefits of such investment will extend beyond water quality, as clean water is a pre-requisite to our tourism industry, food production and other manufacturing.

The EPA acknowledges that given the under-investment in public water services in the past, Irish Water will not achieve full compliance in the 2014 – 2016 period. However, Irish Water should strive to achieve compliance in the shortest possible timeframe. Irish Water should focus efforts on priority schemes and seek to ensure that the efficiency of a unified utility improves the rate of delivery of compliance in comparison to previous years.

¹ Consultation Paper Questions 3 & 4

In the context of prioritisation, the most recent EPA report on Urban Waste Water noted 42 urban areas where sewage is discharged with no treatment or preliminary treatment only. While 27 of these agglomerations are included in the CIP, the remaining 15 have been omitted (see Appendix 2 of the EPA's submission on the CIP). The provision of appropriate waste water treatment in these agglomerations needs to be prioritised for investment in the short term.

The consultation paper notes that there is a potential conflict between requirements under EPA licences and the CER's price control process which merits examination. The requirements set out in EPA Waste Water Discharge Licences and Certificates of Authorisation are legally binding and Irish Water should target resources through both the major and minor capital programme to comply with these requirements.

2. Monitoring and Service Levels²

The EPA's previous submission on the CIP highlighted the need for key performance indicators that are measurable, tracked and publically reported on by Irish Water. This information is essential to monitor progress in the 2014 – 2016 period for regulation, enforcement and reporting purposes.

The EPA supports the further improvement of water service investment governance by the establishment of an Output Monitoring Group to review Irish Water's progress against its expenditure and service improvement programmes. The operational details of this group will need to be agreed but the chairperson and administrative support services should be independent of the Irish Water organisation.

3. Operational Expenditure Efficiencies³

The EPA has identified a number of operational efficiencies that Irish Water should implement in the short to medium term, including Water Safety Plans incorporating source protection, rationalisation of monitoring and analysis programmes, amalgamation of water supplies, optimisation of chemical dosing at water treatment plants, etc. As would be expected, the management and reporting structures between Local Authorities and Irish Water are complex and multi-faceted. However, more rigor and efficiency needs to be brought to this area to improve operational issues, information flow and staffing costs.

4. Remedial Action to Restore Water Quality⁴

Article 8 of Council Directive 98/83/EC on the Quality of Water Intended for Human Consumption addresses the issue of remedial action and restrictions in use. Article 9 refers to derogations and plans for remedial actions. Your attention is drawn to the provisions of Article 8(7) and Article 9(4) where competent authorities consider a non-compliance with the parametric value to be "trivial". The Directive makes it clear that trivial non-compliances are expected to be resolved within 30 days.

² Consultation Paper Question 5

³ Consultation Paper Question 8

⁴ Consultation Paper Questions 30 & 39

5. Water Quality Issues


Consideration should be given to extending the economic incentive to resolve issues in situations where water quality is non-compliant with the Drinking Water Regulations⁵ standards but does not pose an immediate risk to human health, e.g., persistent Trihalomethanes exceedances.

6. Force Majeure⁶

EPA drinking water reports have recognised that prolonged periods of heavy rainfall have tested the robustness of water treatment processes, and in many cases the ability of a water treatment plant to respond to changing raw water conditions. While Irish Water proposes that discounts will not be given to customers in the case of Force Majeure (including storms, floods and utility failure), resilience is a key function of a modern water services system. As such, the EPA considers that in many cases, storms, floods and utility failures are foreseeable events that water treatment plants should be prepared for, e.g. back-up generators or automatic shut-offs. In the majority of flood events, the water treatment plant should be physically secure from inundation and prepared to deal with the consequent changes in raw water quality.

I trust these comments will be taken into consideration by the CER. If you wish to discuss any of the above comments in detail, I can be contacted at 01-2680133.

Yours sincerely,

pp. 

David Flynn
Programme Manager
Office of Environmental Enforcement

⁵ European Union (Drinking Water) Regulations 2011, S.I. No. 122 of 2014

⁶ Consultation Paper Question 32