Irish Congress of Trade Union

Submission to the Commission for the Regulation of Utilities

Irish Water Revenue Control Three

September 2019
1. Introduction.

2. The Irish Congress of Trade Unions (Congress) welcomes the opportunity to comment on the draft conclusions of the Commission for the Regulation of Utilities (CRU) on the revenue to be made available to Irish Water to spend on capital projects and day to day operational expenditure over the revenue control period 2020 – 2024.

3. The process employed by the CRU in determining how much Irish Water can spend involves a detailed examination of Irish Water’s spending proposals and as part of this the CRU benchmarks Irish Water against other water utilities that they deem appropriate. In November 2018 Irish Water published its spending proposals. In July 2019 the CRU published a consultation paper in which it proposed to significantly reduce the spending proposed by Irish Water particularly operational expenditure. Table One below details the level of spending proposed by Irish Water and what the CRU is proposing to allow.

Table One

<table>
<thead>
<tr>
<th>Irish Water Spending Request Versus CRU Proposed Allowance</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Irish Water Request</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Expenditure</td>
<td>€745m</td>
<td>€750m</td>
<td>€752m</td>
<td>€743m</td>
<td>€728m</td>
<td>€3719m</td>
</tr>
<tr>
<td>Capital Expenditure</td>
<td>€910m</td>
<td>€894m</td>
<td>€1000m</td>
<td>€1178m</td>
<td>€1276m</td>
<td>€5258m</td>
</tr>
<tr>
<td><strong>Total Irish Water Request</strong></td>
<td>€1665m</td>
<td>€1644m</td>
<td>€1752m</td>
<td>€1912m</td>
<td>€2004m</td>
<td>€8977m</td>
</tr>
<tr>
<td><strong>CRU Proposal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Expenditure</td>
<td>€723m</td>
<td>€710m</td>
<td>€684m</td>
<td>€646m</td>
<td>€611m</td>
<td>€3373m</td>
</tr>
<tr>
<td>Capital Expenditure</td>
<td>€910m</td>
<td>€884m</td>
<td>€980m</td>
<td>€1151m</td>
<td>€1240m</td>
<td>€5164m</td>
</tr>
<tr>
<td><strong>Total CRU Proposal</strong></td>
<td>€1633m</td>
<td>€1594m</td>
<td>€1663m</td>
<td>€1797m</td>
<td>€1850m</td>
<td>€8537m</td>
</tr>
<tr>
<td><strong>Irish Water Request versus CRU Proposal</strong></td>
<td>-€22m</td>
<td>-€50m</td>
<td>-€88</td>
<td>-€124</td>
<td>-€154</td>
<td>-€439</td>
</tr>
</tbody>
</table>

4. As the table illustrates the CRU are proposing to disallow €346 million of operating expenditure and €94 million capital expenditure. In the view of Congress this, potentially, has very serious implications:

- for the capacity of Irish Water to deliver the objectives as set out in its business plan in particular the vital infrastructural projects necessary to improve the public water system;
- for its capacity to meet the terms of the Service Level Agreements (SLA’s) currently in place with each Local Authority; and
for its capacity to honour the terms of collective agreements in place, particularly as they relate to the Local Authority water services staffing levels.

5. The Irish Congress of Trade Unions (Congress) is the largest civil society organisation on the island of Ireland representing over 800,000 workers. Our affiliated unions represent the staff employed directly by Irish Water but also the staff employed by Local Authorities involved in the day to day delivery of public water services.

6. We have reviewed the consultation document published by the CRU on the 31 July 2019, and in this submission, we will comment on:

• the appropriateness of the methodology used by the CRU in coming to its draft conclusions;
• the importance of providing Irish Water with enough resources to ensure the continued modernisation of the public water system; and
• the necessity of ensuring that the CRU process does not interfere or impede the implementation of collective bargaining agreements currently in place.

7. Evaluating Irish Waters Spending Proposals – The Approach of the CRU.

8. The CRU was established as an independent regulator of utilities supplying energy and water in the Republic of Ireland. The website of the CRU describes the organisations mission as follows, “the CRU’s mission is to protect the public interest in Water, Energy and Energy Safety. The work of the CRU impacts every Irish home and business, by ensuring safe, secure and sustainable energy and water supplies at a reasonable cost. The sectors we regulate underpin Irish economic competitiveness, investment and growth, while also contributing to our international obligations to address climate change”.

9. When Irish Water was first established it was envisaged that it would be a regulated entity as it was a monopoly supplier of water and wastewater services to domestic and non-domestic consumers of public water services. Government considered this role as vitally important particularly in the context of domestic water charges. Given that the Government has decided not to permit Irish Water to levy domestic water charges and given that Government is main funder of Irish Water, Congress is not convinced of the necessity of CRU’s role in
determining resources to be made available to Irish Water. We understand that consideration of this point is a matter for Government. However it is clear that Irish Water is structurally very different to utilities supplying energy and the application of a similar regulatory approaches to Irish Water may not be appropriate.

10. Turning to the proposal of CRU to disallow €439 million of Irish water spending between 2020 and 2024. The CRU has come this conclusion having benchmarked Irish Water against Northern Ireland Water and Scottish Water.

11. In the case of Scottish Water, it is interesting to note that a paper\(^1\) has recently been published comparing that utility to Irish Water. The authors of this paper point out that much of the development of Irish Water has been based on the experience of Scottish Water. However, they go on to point out that there are very stark differences between the two utilities. In summary the document points out that:

- Irish Water is treating considerably more water and wastewater even when allowing for the age and condition of the existing infrastructure;
- 63% of Ireland’s population live in urban setting whereas 72% of the population of Scotland live in large towns or cities;
- Ireland has a total of 924 Water Treatment Plants (WTPs), in contrast to Scottish Water’s 242 WTP’s. This operation of the additional WTP’s means that Irish Water’s operational expenditure will be of necessity higher;
- Irish Water and Scottish Water have two entirely different funding models; and
- Irish Water and Scottish Water are now at two completely different stages of maturity.

12. The paper also goes on to point out that by 2050 Ireland’s population will be greater than Scotland’s. It would seem to Congress, that the challenge of dealing with a rapidly growing population, an ageing and dispersed infrastructure, and a very different funding model disadvantage Irish Water by comparison with Scottish Water and raises serious question as to whether it is an appropriate utility against which Irish Water should be benchmarked.

\(^1\) http://www.scirp.org/pdf/JWARP_2019082911560251.pdf
13. Ensuring the Continued Modernisation and Development of the Public Water System.

14. On pages 45 – 47 of the Irish Water Strategic Funding Plan 2019 – 2024 ² they list the capital projects that they intend to deliver over that period. The projects identified in the plan are of the upmost importance and are necessary to ensure the continued delivery of high-quality drinking water and the sustainable treatment of wastewater.

15. Government’s Water Services Policy 2018 – 2025³ sets out the high-level objectives of the public water system and identifies the priority issues to be addressed in the period. A central theme running through the policy, is the requirement to provide investment to ensure a safe and reliable water supply, to provide effective management of wastewater, to protect and to enhance the environment and meet consumers expectations.

16. The requirement for high levels of capital investment in the public water system was further highlighted in the last number of days by the Environmental EPA Drinking Water Quality in Public Supplies Report 2018 ⁴. The Report highlighted that Inadequate treatment and infrastructure at drinking water plants puts public health at risk from Cryptosporidium.

17. The undoubted requirement for additional investment in the public water system is occurring at a time when there is considerable construction price inflation.

18. It would seem to Congress that considering this, the CRU should revisit its conclusion that €90 million of capital expenditure identified by Irish Water should be disallowed.


20. One of the matters frequently overlooked or ignored by economic regulators is the possible impact of collective agreements on the expenditure incurred by utilities such as Irish Water.

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21. As noted by the CRU, while Irish Water is responsible for the delivery of the public water system it is delivered on a day to day basis by Local Authorities and their staff through the operation of SLAs.

22. The staff of Local Authorities are public servants and their terms and conditions of employment are determined by collective agreements concluded from time to time by public sector management and the Congress Public Services Committee. The agreement currently in force is the Public Services Stability Agreement\(^5\). This agreement provides for, amongst other things, a series of pay increases for all public servants and a commitment to no compulsory redundancies in the public sector.

23. Other collective agreements have been concluded that specifically apply to the Local Authority staff water services staff.

24. When Irish Water was established the Irish Water Consultative Group (IWCG), comprising unions, Local Authority management, Irish Water management and representatives of the Department of Housing, Planning and Local Government was set up. The IWCG is chaired by the Workplace Relations Commission (WRC). The purpose of the IWCG was to deal with any industrial relations issues arising from the establishment of Irish Water.

25. Under the auspices of the IWCG an agreement was reached on the number of full time equivalent (FTEs) in Local Authority Water Services to be funded by Irish Water. The agreement provides that Irish Water will fund 3,175 FTEs 95% of whom would be on permanent contracts. This agreement remains in force.

26. Similarly, there are collective agreements in place for the staff directly employed by Irish Water. Although the staff of Irish Water are not public servants, there are agreements currently in force that provide for pay progression and other improvements in conditions of employment.

27. We note that the CRU is proposing to disallow over €300 million of Irish Waters proposed operational expenditure. It is crucial that in proposing to disallow a very significant amount of operational expenditure the CRU, by virtue of its decision, does not impede or undermine the implementation of collective agreements currently in force at national level, sectoral level or in Irish Water

\(^5\) [https://www.gov.ie/pdf/?file=assets.gov.ie/6618/394821552e784f17aa5407e8af32e410.pdf#page=1](https://www.gov.ie/pdf/?file=assets.gov.ie/6618/394821552e784f17aa5407e8af32e410.pdf#page=1)
itself. As the CRU will be aware, over 30% of Irish Water’s operational expenditure is spent on wages and salaries. The current position of the CRU, in the view of Congress, will mean that Irish Water will be seriously challenged to meet the terms of the collective agreement referred to in paragraphs 22 -26 of this submission.

28. For the CRU to impede the normal functioning of collective bargaining could have very serious and significant industrial relations implications.

29. **Conclusion.**

30. Congress has reviewed the draft decision of the CRU and we believe that it should be adjusted to ensure that Irish Water can continue to invest in the modernisation of the public water system and that collective agreements are capable of been implemented in full.

**ENDS.**