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Sarah Fox
PR19 Regulatory Redeterminations
Competition and Markets Authority
The Cabot,
25 Cabot Square,
London
E14 4QZ
(by email: waterdetermination2020@cma.gov.uk)

27 October 2020

Dear Ms Fox,

Ofwat Price Determinations – 2019 price review


We welcome the Provisional Determination from the CMA on the PR19 appeals from the four water companies. We have not provided a substantive response as we support the submission made by the Energy Networks Association (ENA) on behalf of Energy Networks.

The CMA's redetermination of PR19 price controls considers a number of issues that are common across regulated industries. As such, the CMA's findings in this case are likely to be referenced by other regulators when reaching their own decisions. This will be true in the coming weeks as Ofgem concludes its determination of the RIIO-2 price controls.

Due to the ongoing Coronavirus pandemic, the circumstances and challenges faced by all parties involved in this review have been exceptional. The CMA is to be commended for its approach to hearing this case which has, in turn, enabled it to consider extensive evidence and the wide range of arguments presented. We welcome the progress made within its provisional findings and look forward to the publication of its Final Determination in the coming months.

To assist in that process, we are contributing through the ENA and support its submission in response to the CMA's Provisional Determination publication¹. We believe the CMA should consider and take into account the focused ENA submission prior to making its final determination(s). The items which we would want to highlight are summarised as follows.

¹ Anglian Water Services Limited, Bristol Water plc, Northumbrian Water Limited and Yorkshire Water Services Limited price determinations, Provision findings, 29 September 2020

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- 1. The CMA has made a number of important corrections to the errors made by Ofwat.**
However, it can and should go further in its redetermination for the cost of capital, in particular the cost of equity range as set out in the ENA response.
- 2. We are supportive of the decision to reduce the efficiency challenge to no more than 1%.**
We believe this is still at the top end of a plausible range with significant evidence that this should be significantly lower. We agree with the CMA's approach to avoid double counts with regards to Real Price Effects and frontier shift.
- 3. The CMA has undertaken its financeability analysis including considering plausible downside scenarios.**
We are supportive of the CMA adopting this approach and not relying upon upside outperformance of the price control to support credit rating metrics.
- 4. We note that the CMA has not been supportive of the Gearing Outperformance Mechanism (GOM) proposed by Ofwat for PR19.**
We believe this may have an important read across into the RIIO price controls whereby the introduction of new mechanisms must meet the high bar of regulatory best practice.

Overall, considering the evidence that has been presented to the CMA including from the ENA, we would encourage the CMA to go further in its Final Determination in correcting the errors made by Ofwat. The CMA has rightly acknowledged the balance required to attract investment into regulated sectors to protect the interests of consumers and by going further this would ensure the risk to consumer welfare is reduced accordingly.

The market response to Ofgem's Draft Determinations for RIIO-2 and then subsequently the CMA's provisional findings demonstrates that this is an important issue. This has included an adverse stock market reaction, investor and analyst reactions and also credit rating agency reactions. This is evidence which should not be overlooked in making these critical decisions that will support investment and the delivery of NetZero.

We would encourage the CMA to press on with its deliberations in the PR19 appeal and look forward to its Final Determination in the near future. We remain ready to assist the CMA in whatever way it requires.

Yours sincerely

Maz Alkirwi
Director of Finance