

Competition and Markets Authority

**Sent electronically**

12 September 2024

**Northumbrian Water response to “Draft rules of procedure and guidance for water redetermination references”**

Dear CMA,

Thank you for the opportunity to respond to your consultation on water determination references.

We strongly welcome this very timely consultation. The current rules are much more general and for instance include mergers where the nature of the CMA process and the surrounding legislation is quite different. It is therefore helpful for these new rules and guidance to be standalone and specific for water redeterminations which makes it much clearer how the process would work.

In general, we agree with the contents of the rules and guidance, and they match our experience of the redetermination process following PR19. There are three areas where we thought our feedback may be helpful:

- We strongly support the issuing of **provisional determinations** and any CMA working papers as these are invaluable to testing the CMA's position and getting feedback from the redetermination participants. The draft guide suggests that there may be cases where the CMA considers that it is not appropriate to issue a provisional determination. We struggle to see what these circumstances might be given the importance of the consultation to the process, so would welcome further guidance on what these cases might be and how the CMA would seek alternative feedback on its thinking. Where the CMA does issue a provisional determination, we would want to ensure that there is sufficient time for parties to respond – we would suggest a minimum period of 4 weeks for this.
- In terms of **scope of the redetermination**, it is helpful to clarify that the CMA is not bound to only consider the issues raised in companies' statements of case and can assess additional issues where relevant. In practice we would hope that issues considered to not be in dispute by all parties can be left untouched, e.g. as retail costs were as part of the PR19 process.

- We understand why **hearings** may need to be held in private and are confident that the CMA will ensure appropriate transcripts are made available to relevant parties in a timely manner. As part of rule 9.7 it states that the CMA will not necessarily cover all of the main parties' arguments at a hearing – we would hope that this only covers more trivial matters or where the issue is factual and no discussion is required.

The recent PR24 Draft Determinations have highlighted a divergence in views on key items in the regulatory settlement between the economic regulator and the sector. There is a risk of more companies seeking a redetermination in response to this than has been seen at previous price reviews. If this scenario were to materialise, the CMA's guidance on managing multiple redeterminations will be valuable. In such circumstances, we see increased merit in the need for joint hearings and potentially submissions on common issues to make best use of the time available. Further CMA guidance on this could prove helpful.

We hope that you find this response useful and would be happy to discuss it with you further – please contact Geoff Randall at [regulation.postbox@nwl.co.uk](mailto:regulation.postbox@nwl.co.uk) if you would like to follow up on anything.

Yours sincerely,

Northumbrian Water