

Unite response to the Department for Business & Trade Consultation: - Smarter Regulation: Strengthening the Economic Regulation of the Energy, Water and Telecoms Sectors



1. Introduction

- 1.1. This submission is made by Unite, the UK's largest trade union with over one million members across all sectors of the economy, including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, health, local government and the not for profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.
- 1.2. Of particular relevance, to this submission, Unite represents almost 31,000 engineers and technicians in the Energy and Utilities sector carrying out every task from the most menial to the most highly skilled engineers and scientists in the country within the nuclear energy industry. There are aspects of telecommunications that impact the ability to communicate with remote workers and install things like smart meters, but the administration of Ofcom, is an area to which the members of this sector are not well versed. Therefore, as Unite represents workers in every aspect of the energy sector and water industry, this response will only focus on Unites views with respect to the activities of Ofgem and Ofwat.

2. General observations

- 2.1. In recent consultation responses, Unite has been vocal about the failings of Ofgem and Ofwat in its actions to protect the interests of the consumer, allowing capitalism to increase debts to unmanageable levels while selling off the family silver to pay huge historic dividends to shareholders.
- 2.2. The water industry is now a husk of its former self after being hollowed out to extract the last penny to pay management remunerations and shareholders, while selling off anything that was not vital to the operation of the industry, bleeding it for every drop and failing to use this extracted wealth to invest in new reservoirs, sewage treatment capacity or replacement pipework. One area that has suffered more than most has been the workforce whose numbers have declined, removing the capacity to conduct the needed inspections to prevent leaks and blockages. Ofwat has stood by and allowed this blatant extortion to build to a situation where Thames Water is on the verge of collapse simply because it is spending more money managing its debt mountain than it can afford leading to an inability to continue to pay out the dividends its shareholders expect or invest in the waste water treatment capacity without outside help¹.
- 2.3. When the water industry was privatised, it had no debts and it had considerable assets, including huge tracts of land that were earmarked for water storage. In addition, the term "fatberg" did not exist as any such blockages were dealt with, due to the frequent inspections by the workforce. If the Water industry had been managed correctly there would be no need for hosepipe bans or the discharge of untreated human waste into our sea's and watercourses. There have been times when the UK was only days away from reliance on tankers and standpipes to ration supplies water. Already Affinity Water customers, involved in a trial, where those who use a lot of water could be charged 160% more² in an effort to reduce water consumption in an area with limited water resources.

¹ The Thames Tideway is owned by a consortium of investors, and more than two million pensioners have an indirect investment in Tideway through UK pension funds managed by those investors. The super sewer will hopefully stop untreated sewage from spilling into the Thames from London's old Victorian sewer network. The initial investment is repaid by Thames Water collecting the contributions with the customer's water bills, specifically earmarked for payment to Tideway the company behind the project. <https://www.tideway.london/the-tunnel/the-story/>

² Prices were set at nothing for the first 30,000 litres a year, then £1.50 per 1,000 litres for the next 25,000 litres with additional supplies charged at £4 per 1,000 litres plus charges for the maintenance of the infrastructure.

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- 2.4. The unlawful and illegal activities of the UK water industry to hide the scale of the issue is mind boggling³, are costing the lives of many indigenous species and causing illnesses in those who engage in watersports activities. The report by surfers against sewage 2022 highlights just some of the health impacts of these discharges⁴ and the release of untreated waste adds to the misery of those homes which are flooded. The problem is that as sewers are often linked to drainage, heavy downpours leave water companies with the decision to either discharge into watercourses diluting the waste or see toilets and waste pipes back up, discharging undiluted waste into homes due to the lack of capacity and changing weather patterns⁵.
- 2.5. A byproduct of wastewater treatment is the sludge which if not given away to farmers becomes a cost for the water industry. A practical demonstration of Pyrolysis, as has been demonstrated at the Berlin Waßmannsdorf treatment plant⁶ which uses treatment sludge and renewable energy to turn the wastewater into clean water, hydrogen, solid carbon and/or methane, creating products in high demand especially in the UK. The process can also be applied to other methane sources too meaning that if the greenhouse gas was collected rather than released it could turn from an issue in the battle to Net Zero to an asset that could provide much needed funds. Innovation like this is not being pursued however in the way that it should, as water companies are more concerned with managing debt.
- 2.6. In the energy sector there is blatant profiteering causing large swathes of the population to fall into fuel poverty. Many of these are innocent working families who are struggling to survive on the poverty wages awarded to the public sector. A large slice of this fuel poverty is due to the governments pressure on workers to work harder for less and move their pay awards away from RPI, resulting in a decline in their spending power and standard of living. Therefore, the capitulation into the demands of the energy sector by Ofgem has allowed them to post rocket profit margins, exploiting the misery of others.
- 2.7. In reading the aims of this consultation it reads like the woes of these sectors can be cured by the increase in competition and a way to encourage investment. Why would anybody in their right mind wish to invest in an industry that is racked with over £60 billion of debt as is the case in the water industry? Just how would more competition in addition to those already in this area, help stop the dominant few, whose perversion of the industry from one whose only goal was to create and provide a way of transmitting energy from a generator to the end user, into one whose aims are to make money from everybody, rich or poor. The role of the regulator was to protect the weak and ensure that they are not exploited and yet Ofgem has facilitated the continued exploitation by removing barriers that would have protected the innocent from going cold or hungry.
- 2.8. During the Winter of 2023 the UK government paid out more of taxpayer's money, to protect the public from the record price rises of the energy, triggered by Russia's invasion of Ukraine than it would have cost it to renationalize the industry and provide the power at cost. In France the French limited EDF to a 4% increase and added further obligations on it, to build more nuclear power stations. While EDF failed to make a profit that year the public were protected. In the UK the public have seen bills more than double in a year, and debts spiral out of control. The industry has been allowed to install meters that automatically move customers onto high tariff, self-disconnecting prepayments from cheaper post payment deals, when they become unable to pay. How can these actions be protecting the public?

³ See Appendix for details of the investigated offences. There are potentially more as highlighted by a recent [BBC Panorama programme](#).

⁴ The report can be found on the [Surfers against sewage](#) website. It highlights that

⁵ The [Met Office has warned that climate change will result in](#) more heavy summer downpours, lightning, severe wind gusts, and temperature extremes especially over cities. 2023 was the hottest year on record and it is looking likely according to their modelling that 2024 will be hotter still.

⁶ <https://www.synreform.com/en/products/wastewater-plasmalyzer> This process can also be used to create syn gas, vital in the creation of synthetic drop in alternative near carbon zero fuel solutions via the [Fischer Tropsch process](#). The method developed by German company Graforce can also convert raw sewage and animal waste to hydrogen, solid carbon and fresh water. The process is already in use at the MOA conference hotel in Berlin:- <https://www.german-energy-solutions.de/GES/Redaktion/EN/News/2020/20201117-methane-plasmalysis.html>

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- 2.9. It is these actions that have driven down the popularity of these sectors to a stage when workers are being attacked for wearing the uniform of an energy supplier.
- 2.10. The executive summary to this consultation highlights just how large these sectors are economically as if they are becoming too big to fail so the government is relaxing the regulations further to allow more exploitation. The stated aim of the consultation is to support external investment. While Unite members can understand the desire of investors to put their money into an industry that is going to make more money, they do not see why investors would wish to plough good money into an industry with such a huge debt mountain.
- 2.11. For the water industry the government proposes options to promote systems-based thinking, suggesting that more competition is needed when the reverse is true. If the general public paid for the supply of water out of their wages, it would guarantee payment and result in the rich paying more to help the poor out of poverty. In this way the provision of resourcing for network water storage especially in drought plagued areas and the transformation of waste into something useful rather than a burden could be realised.
- 2.12. The energy sector has multiple new private sector investors who want to construct many new schemes, to provide power and cash in on the initial tariff bonanza, that there is a waiting list that has investors who will need to wait fifteen years for grid connectivity⁷. Some investors are not prepared to wait half that time before their wind or solar farm investment provides a return and so have invested elsewhere causing the much needed capacity to be lost. Therefore, one sector that needs more focused investment plans and a more regulated list of opportunities for investors than the current free-for-all is the energy industry. If there were more resources ploughed into rewiring the country to allow consumers to also become providers more efficiently or to convert imported green hydrogen back into energy without the release of NOx, they would be hugely beneficial to a range of industries or potential investors.
- 2.13. Unite believes the consultations answer to help vulnerable consumers is the idea of more data sharing so not only will one supplier know that the customer is struggling to pay, but all of their suppliers will also be aware. They will know that this customer is disgruntled with the service they are provided so all will be told that the customer is difficult to please. If the customer has special needs like the need for uninterrupted supply as they are on a ventilator or something, then all the suppliers will know that the customer has no choice but to pay and thus opening them to be bled dry. Data Protection relaxation is a mainstay to prevent such actions and yet this consultation is suggesting opening the floodgates so that the details of private contractual relationships can be provided to the industry in the interests of protection or exploitation. If the customer wishes any medical information or private circumstances to be known, they are within their power to disclose them to the suppliers and parties that they trust. Relationships need to be worked on to build trust and the providers of energy to consumers have done just about everything to destroy that trust. Unite would therefore strongly oppose this sharing of information.
- 2.14. Unite believes that in order to protect the general public both the energy industry and water industry need to be returned to public ownership. Additionally, where management and shareholders have exploited the system, they should be forced to repay every penny of any unjustified payments before they could be allowed to invest further into the UK.
- 2.15. Any regulators duties should be to the customer, the individual and especially the vulnerable in society. Economic regulation should be just that, to ensure that investments are not funding unlawful activities or undesirable individual's lifestyles. That monies invested does not support regimes that oppress their populations or companies who mistreat their workforces.
- 2.16. Environmentally there is the not so small task of reaching net zero before 2050 which any sensible government will see, requires more of a war footing in the scale of actions needed. The Committee on Climate Change has repeatedly made it clear that the UK government is not doing enough to reach this legally binding target. The planet is warming faster than it has done in geologically recorded history. Meteorologists are predicting a runaway climate if we fail to act to reverse that in the next 7 years. Efforts need to be redoubled both at home but also globally to prevent the planet warming by more than 1.5°C.

⁷ [Renewable Energy Projects: Connection to the Grid Volume 731: debated on Tuesday 18 April 2023](#)

If we fail to prevent the warming beyond this point, we open the possibility that all life on this planet will be lost and anything that does survive could only be no more than an extremely robust bacterium. This is not science fiction; it is science fact. It is therefore imperative that efforts should be taken to develop any idea from concept to realization as a matter of national emergency. It is solely in this area that nothing should be taken off the table save for activities that do not protect the customer.

- 2.17. Appeal regimes need to do more than just hold regulators to account they also need to ensure that regulators have a backbone and the ability to say no to the industry in order to protect the customer. The involvement of the Competition and Markets Authority's (CMA) would be welcomed if it too understood the need to protect the individual over the body corporate. If Ofwat or Ofgem have said no to demands to allow it to charge more then the CMA need to respect that decision if and only if the reason to say no was to protect that customer. Everything should hinge around this premise, as stressed in the legal foundation of each regulator.
- 2.18. Where there is statutory guidance to assist regulators, this should be seen as the blueprint for future determinations, save those which compromise the prime responsibility to the customer. Ofgem and Ofwat have the power to close businesses, make whole communities suffer if they do not protect the customer from exploitation by those in these sectors. These sectors can cause people to end their lives or at least shorten it if they get their decisions wrong.
- 2.19. Requiring an industry to grow is not always healthy. Such a duty promotes profiteering in order to fund growth. Growth for grow's sake is never helpful and therefore any duty to grow needs to be tightly regulated and directed into the correct direction of travel.
- 2.20. To aid in 'Smarter Regulation' calls for evidence on the landscape, You will find all past responses from Unite the union posted on the Politics Home website⁸.

3. Specific Questions

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1. The government welcomes views on appropriate terms of reference, including scope, for such an infrastructure needs assessment, as well as views on who would be best placed to deliver this. The government welcomes any further views on the assessment.

- 3.1. Unite feels the current terms of reference are appropriate if they were followed. Sadly, this has not been the case with Ofgem and Ofwat. Unite disagrees that there is a need promote investment into some aspects of the energy sector, such as in renewables, but there is a need to obtain support for area's like new nuclear, carbon capture and tidal generation. Similarly in the water industry there is a desperate need for wastewater treatment investment. From an environmental and energy security standpoint there is also the need to invest in green hydrogen generation and arrays of hydrogen fuel-cells to sustainably store excess power generation. Finally, there is the critical need to transmit the power in the quantities required.
- 3.2. Unite would strongly suggest that as in the construction of the Thames Tideway, that to encourage investments they would need to be fire gapped from the existing companies' financial situation, such a move might provide the required security of this investment. The problem is the acceptance of such companies by Ofwat.

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2. To what extent, in the standardization of processes and procedures, is there greater scope for regulators to learn from each other?

- 3.3. Unite does not feel there is great scope for overlaps between the water industry and energy supply sectors other than the way that customers are treated, the number and safety of workers. Unite would hope that if there is standardization, that the industry does not only exchange the worst practices.

⁸ To read the consultation responses to every consultation since 2015 Click Here ⇒ [Unite \(politicshome.com\)](https://www.politicshome.com)

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3. To ensure the outcome is fit for purpose, are there any other examples of regulatory best practice or efficiency that should be considered in addressing complexity?

- 3.4. Unite is not aware of many examples of best practice when it comes to the activities of Ofwat or Ofgem. Both Ofwat and Ofgem's core principles is directed to protect the welfare of the consumer first, to act as a barrier to exploitation. It is a pity they have lived by these principles.

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4. What challenges are faced at present when attempting to transfer water and how could these be mitigated?

- 3.5. Unite believes that the first issue, with regard to the transfer of water, from one area to the next is available spare capacity. While some areas have been flooded this winter, only a minimal volume of this water will end up in storage. The area with the spare stored water may also be the other end of the country.
- 3.6. Secondly there is the security issue. Having distinct areas which are not connected means that should there be a terrorist incident, only the network of one area will be impacted. In the Cambridge area Independent Water Networks (IWN) on 19th January an area of Cambridge were told not to drink the tap water due to an incident⁹. If there was a more serious situation this contamination could impact the entire network and potentially stored supplies. As it is Per- and polyfluoroalkyl substances (PFAS) – a group of 10,000 or so human-made chemicals widely used in industrial processes, firefighting foams and consumer products – were found in samples of raw and treated water tested by water companies last year, according to the Drinking Water Inspectorate (DWI)¹⁰.
- 3.7. Then there is the environmental argument. In order to pump water to a location or remove it, the water has to flow downhill the steeper the gradient, the faster the flow. However, the steeper the gradient also means the shorter distance that the water can travel before it will need pumping up to a pressure equivalent to it being pumped up a water tower a few hundred meters in height. This requires energy and that will result in the use of either a fossil fuel powered pump or one reliant on the National Grid. Whilst solar and wind powered pumps could work, without a string of pumping stations the water will not get to where it is needed.
- 3.8. Pollution and therefore, the retreatment of the fresh supply to remove the trace absorbed particulates from the extended journey through the pipework. The blending of soft water supplies with those from hard water areas will cause additional expense due to the limescale build-up on equipment such as water heaters.
- 3.9. In most cases it would be far better to utilise pyrolysis¹¹ to convert wastewater into fresh water supplies that could replace those used on the fields and even supplement fresh supplies to homes and businesses. This could result in the reprocessing of waste in a matter of minutes rather than 72 hours. It would also reduce the volume of methane released into the atmosphere.

5. Does RAPID currently have the right scope? Should it be expanded? If so, please elaborate.

⁹ [People told not to drink tap water after 'incident'](#)

¹⁰ Guardian Article [28 November 2023] ['Forever chemicals' found in drinking water sources across England](#)

¹¹ See reference to Graforce at reference point 6 earlier – the German company use pyrolysis achieved by using an electric plasma to super heat anything that passes through the plasma, breaking the substance into its constituent atoms. Graforce have called the process plasmalysis due to the way the superheating is achieved.

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- 3.10. The Regulators' Alliance for Processing Infrastructure Development (RAPID) investment pipeline has the potential to create a welcome route, to channel investment to where it is needed but there are notable gaps. The issue it faces is overcoming the debt mountains of each of the water companies, due to the drain on the income used to manage this debt.

6. What kind of role could regulators play to enhance the effectiveness of competition in large procurements and/or long-term design build operate contracts?

- 3.11. Unite does not agree that the regulators should encourage competition given their lack of control of the existing number of companies and their behaviour to date. The regulators simply do not receive the funding to keep track on their activities especially when it comes to worker levels impacts, financial management etc.

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7. Do further opportunities exist to promote coordination and holistic approaches to issues in the water sector? If yes, please elaborate.

- 3.12. Unite and other trade unions, attempt to coordinate the activities of members in the water industry and in energy to promote the need for new infrastructure, highlighting the benefits that such infrastructure can bring to communities and UK plc.

CHAPTER2: COMPETITION

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8. Should the government legislate to amend the test to allow more projects to be delivered under the Water Industry Act 1991 and SIPR? Please provide evidence.

- 3.13. Unite is always in favour of an initiative to increase employment in the Water Industry, especially if that new employment fills gaps in the capacity of the industry to improve the sustainability and resilience of the Industry. These roles need to be on a rate of pay that is sufficient to maintain the worker on the reasonable standard of living recognizing the skills they possess and obtain. Sadly, the history of Water industry projects is not always a good one.

- 3.14. Consequently, Unite would ask, if there are to be changes in the legislation, for clauses that provide an element of social protection and recognition.

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9. Should the government amend the Water Industry Act 1991 and related regulations to extend the role of the DWI to also include regulated and non regulated third party providers?

- 3.15. Unite has no comment to make on this other than to question the use of non regulated third party providers.

10. Should the government commence Chapter 2 B of Part III of the Water Industry Act 1991 and make regulations under those provisions? This would enable the regulation of certain water supplies from third parties to water companies.

- 3.16. Unite would be concerned about any water obtained from third parties if that supply has not first undergone suitable water quality / safety assessments to normal UK water standards, and the supply does not come at the expense of others in less developed nations.

11. Should the Planning Act 2008 definition of water NSIPs be updated? If your response is yes, what should the new definition be/include?

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- 3.17. Unite believes that the definition of Nationally Significant Infrastructure Projects (NSIPs) is reasonably broad enough to cover what would be required.

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12. Should the government amend Section 8 of the Water Industry Act, that currently requires Ofwat to undertake a full statutory consultation on all licensing applications, irrespective of the scale or nature of the new site being applied for by new appointees, to consider the scale or nature of applications being made?

- 3.18. Unite does not believe that there is a need to amend Section 8. There may be circumstances that should be taken into account when dealing with a project that Ofwat may not be aware of that could impact on the decision-making process.

13. What consultation timelines would be appropriate for smaller scale applications?

- 3.19. Unite believes that respondents to consultations should be provided with at least three weeks to respond, more if efforts have not been made to make people aware of the consultation.

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14. Do you agree that the government and Ofwat should look at ways of streamlining the NAV application process for variations of licences, including by removing the need to consult in certain circumstances?

- 3.20. Unite would welcome ways to streamline processes but does not believe that this should include the removal of the duty to consult.

15. Do you agree that the government should consider moving towards a national licencing regime for NAVs?

- 3.21. Unite does believe that all new appointments and variations (NAV's) should be licensed to ensure that they are qualified to provide a water and/or sewerage service to customers in an area which was previously provided by the incumbent monopoly provider. The wastewater from these NAV's can flow from their areas into those of neighbouring water companies so it is important to ensure that there is the spare capacity to accept the worst case level of flow and it is correctly treated before one drop is allowed to enter watercourses.

16. Do any other barriers exist to market entry in the water sector that the regulator or the government should explore removing?

- 3.22. Unite does not believe there are any barriers that need removing other than more forensic accounting to stop water companies paying shareholders dividends via the back door.

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17. Do you agree that the ability to change the Wholesale Retail Code for uncontentious and non substantive changes should be delegated from Ofwat?

- 3.23. Unite does not agree that the Wholesale Retail Code for uncontentious and non substantive changes needs delegating from Ofwat.

18. Should the government amend or remove the consultation requirements in the Water Industry Act for Wholesale Retail Code changes?

- 3.24. Unite does not agree. Ofwat should retain the duty to consult on matters relating to the Water Industry Act for Wholesale Retail Code changes.

19. Do you see any further ways market governance in the non household retail market could be improved?

3.25. Unite does not wish to comment in this area.

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20. Do further opportunities exist to introduce greater competition for strategic investment into the water and energy sectors?

3.26. Unite does not wish to comment in this area other than to repeat the statements made earlier that competition for competitions sake is harmful not beneficial. There are areas that require investment especially: -

- with respect to the generation of green hydrogen,
- the capture of carbon from industry and secure storage or mineralization of it
- the production of carbon credits through Direct Air Capture and the extraction of Carbon from seawater¹².
- energy storage as hydrogen and its delivery to the grid through banks of fuel cells¹³
- the upgrading of the National Grid so it can deliver enough power to charge more than 3 or 4 EV's in a block of houses served by the same substation without it tripping¹⁴.
- National Grid cables that can receive power from an array of small rooftop domestic and industrial generators more efficiently.¹⁵
- with respect to the delivery of reservoirs so that the water industry can retain enough water for use in the summer without resorting to hose pipe bans.
- with respect to the creation of more than enough water treatment capacity through the utilisation of pyrolysis or other techniques rather than the traditional biological solutions of the early Victorian era that takes 72 hours.
- the self-generation of more electrical power from the gasses found in sewers rather than allowing the methane and hydrogen mix to escape into the atmosphere.

21. What alternative funding/competition delivery models could be considered?

3.27. Unite would suggest the recovery of the billions paid out in shareholder dividends from companies who were not in profit would be a good place to start.

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22. Do the existing concurrency powers and arrangements deter or address anticompetitive behaviour in the regulated sectors? Please explain the reasons underpinning your response.

3.28. Unite hopes that the powers of Ofgem and Ofwat do deter competition in areas where the investment is for the public good such as the welfare of the general public. This would include tackling fuel poverty to stop the exploitation of the less able to pay. The supply of power should be a minimum requirement in this day and age and should fall under the same duty as the supply of fresh water. This should be their

¹² The removal of dissolved CO₂ in this way could assist the oceans in slowing their gradual acidification. One method is [Hydrolytic softening is a lower-cost process to remove CO2 from the oceans. It has similarities to processes at conventional water treatment facilities, which mix hydrated lime to "soften" water by precipitating dissolved inorganic carbon as calcium carbonate.](#)

¹³ Such a process also creates deoxygenated air – a direct replacement for CO₂ fire extinguishers. This process uses excess power generation from renewable sources to turn water to hydrogen and then to release it through arrays of hydrogen fuel cells. Currently there are sizable losses in this method but the alternative of burning the hydrogen releases not just water vapour but also nitrogen oxides that according to [the UNFCCC are 280 times as powerful as CO₂ in warming the planet.](#)

¹⁴ New housing have three phase electrical supplies to cope with the additional demands for home EV charging, without it the power drain makes the transformer believe that there is a direct short causing the safety system to trip and cut off supplies.

¹⁵ The three phase cables can also receive power back into the system more efficiently.

duty to enforce a supply rather than allow the installation of meters that automatically disconnect consumers if they do not pay in advance for their power. The energy sector charges for the supply of power to empty properties under its standing charges and yet will not supply electricity to where it is desperately needed.

- 3.29. In this century we should not be seeing families dying of the cold in homes because they had to make the choice between eating and heating. Our sense of public duty stopped the water industry from ending the supply of water to stop the populous dying of dehydration why should we thwart them from obtaining a hot meal and warmth in the winter. In the dim and distant past our ancestors gathered wood, dug up peat or coal and burnt that to keep warm and hence there was an alternative to the supply of electrical power. Today the burning of wood in properties is not an option or it would create even greater tragedies due to homes burning down.
- 3.30. Providing heat and warmth, as a minimum requirement would have so many benefits to public health. Warm homes do not suffer from mould if they are watertight and well insulated. Warm home payments work if the public are not scared to turn on the heating through fear of financial ruin.
- 3.31. It is not just in the winter that power is needed. The UK climate is changing for the worse, leading to the possibility of greater deaths due to heatstroke. The requirement to have a supply of electricity and water to allow the creation of a cooler refuge from the summer heat is a public good that needs investigation along side a maximum workplace temperature. This includes limits on manual work outside to stop sunstroke from claiming more victims.
- 3.32. The UK's public health system would not be as overwhelmed by so many people dying and ill from heat related health problems if there was the ability to rely on a minimum supply of power. The UK now has a government department for energy security, it is a pity this requirement does not apply to the general populous.
- 3.33. Similarly, the UK is attempting to decarbonize industry but, Unite feels the government, has yet to seriously consider the plight of high energy use industrial practices that have relied on the supply of coal or natural gas to create the heat needed for production in the past that now are having to rely on the supply of energy through cables to produce their goods. Where would the UK be, without a supply of paper, glass, ceramics, and metals, all of which are used in a modern democracy? All of these require large volumes of heat and currently create large carbon footprints. Unite has been calling for a herringbone carbon capture network for over ten years in order to tackle the climate impact of these industrial practices.

CHAPTER3: SUPPORTING CONSUMERS

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23. What are your views on the creation of a single, multisector Priority Services Register?

- 3.34. Unite would welcome the creation of such a register to discover where consumers are falling through the cracks and falling ill or dying due to the lack of heat in the winter or lack of a cool refuge in the summer, as highlighted earlier.

*24. What are the best data sources of vulnerability that the PSR should use?
Who should be able to input data?*

- 3.35. Unite would suggest a combination of local authorities, energy providers and the NHS along side the governments own providers of various benefits. Even the inland revenue would reveal the declared income of the family and the benefits system, the knowledge of need, such as some disabilities.

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25. *What vulnerabilities and services should the PSR cater for?*

- 3.36. Unite would suggest all that are in fuel poverty, disability, those on fixed income such as pensioners. Unite would also suggest that vulnerabilities such as poor housing stock and the lack of insulation should also be considered.

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26. *How can existing affordability support be better communicated to increase customer awareness?*

- 3.37. Unite would suggest the customers should be made aware of support from the moment they fall behind with their payments.

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27. *What are the benefits and risks of giving Ofwat the power to allocate a water retailer if the incumbent retailer becomes insolvent?*

- 3.38. Unite would suggest that Ofwat should have acted sooner to tackle the financial mismanagement of the water company sooner rather than allow them to become insolvent. The government should provide a supplier of last resort if such a situation occurs, but at no time should the government take on the responsibility to repay these debts.

CHAPTER 4 : DUTIES AND FUNCTIONS

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28. *What would be a suitable timeframe in which to conduct a review of these regulators duties?*

- 3.39. Unite would suggest that such a review that has started with the publication of this consultation should be conducted and concluded in a timely manner. To set a set duration would not allow for factors beyond the control of the investigation. Such a process should take its time rather than rush in and make mistakes.

- 3.40. Unite would highlight several quick wins, that should be undertaken, to ensure against financial mismanagement in the water industry. If debts are growing to a level that the repayments are greater than the maintenance budget, then it is time for that part of the water industry to return to public ownership, leaving the company to manage the repayment of the debt mountain. Clearly in doing so the workforce investments and pensions need to be secured so they at least are not out of pocket, as a result of the mismanagement of the water company or if it becomes necessary to renationalise as the company can no longer afford the repayments¹⁶.

29. *What is an effective remit for economic regulators? How can regulators improve delivery of both economic and non-economic functions?*

- 3.41. Unite would suggest the treat of renationalization may help focus the minds of water company executives and board members.

30. *The government's provisional view is that regulators' economic core duties are: Fostering economic growth; Ensuring effective competition; Delivering Net Zero and protecting the environment; Protecting consumers. Are these the correct set of core economic duties regulators should be focused on? If not, what should regulator duties be focused on?*

- 3.42. Unite would strongly disagree with that ethos that competition is the cure all to everything. Delivering Net Zero as soon as possible is a major challenge that should have the government acting as if it is on a

¹⁶ See the [Bloomberg article from 12/12/2023 "Thames Water Nationalization Risk Remains, UK Regulator Says"](#)

war footing. It is only by comparing the long-term benefits of CO₂ mitigation that the potential to save lives is realised. As the planet warms it will not only be those nations that have adapted to net zero that will benefit. The people of the world have a common enemy – climate change and tackling the destruction it will cause should be a stated minimum requirement in every activity we carry out.

31. What are key benefits of this approach? What might any risks or unintended consequences be?

- 3.43. Unite fails to see any benefits to the economy of encouraging a race to the bottom in order to increase the profit margins of others in a fight to provide heat, water and power to the public.

CHAPTER 5 : APPEALS

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32. The government welcome your views on enabling the CMA to have the additional flexibility to appoint larger groups to hear non-price control water appeals and energy appeals.

What might be the downsides of this approach?

Do you have any evidence of alternative models e.g., international comparators?

- 3.44. Unite would welcome the opportunity to be involved in such a process. Worker involvement in outcomes will provide a greater opportunity for understanding the challenges and realizing where there is injustice. The Competition and Markets Authority (CMA) role is one which Ofwat and Ofgem should have been a part of from day one in any event, but they have failed to act to prevent the exploitation of resources and consumers.

33. What are the risks to consider before giving CMA power to directly extend deadlines in energy and water appeals?

What opportunities do you feel this proposal may create?

Do you have any evidence regarding this proposal that the government should consider?

- 3.45. Unite would not stand in the way of the CMA if it was to assume the role of economic regulator, if it does not insist on introducing more damaging competition and misery for workers who suffer from the race to the bottom with below inflation pay increases. Unite would stress that given the £535 million¹⁷ spent on fines and penalties that the water industry has had to pay and the many more it has evaded through under reporting the environmental damage, or near misses any race to the bottom caused by increased competition will result in an increase in an even greater disregard for the rules than is the current practice by the industry.

34. In what other ways can the consumer voice be represented during energy, water and telecoms appeals?

- 3.46. Unite would suggest that a free advocacy service be provided as a minimum to stop the being lost in the shuffle. The lesson from the Post Office scandal, has highlighted that when it comes to the battle between a corporate giant and a group of “skint little people” the one with the deeper pockets will win unless they group together to pool resources. The injustice and delays of the process through appeals needs to be addressed as one side can and will drag their feet to exhaust resources.

35. Are there any concerns or opportunities you foresee in allowing interveners, who have acted on behalf of consumers interest, to recover reasonable costs incurred alongside the body hearing the appeals costs?

How may impact cases and legal practice in this sector?

What would be useful to include in the guidance for the appeals body to deliver this mechanism?

- 3.47. Unite would highlight that in order appeal, both sides need to have equal power to pay for the appeal and the recovery of costs. If the party appealing does not have that capacity to pay both sides costs, if

¹⁷ See appendix for details.

they lose, they may think twice before appealing, simply through the fear that the costs of an appeal going wrong could bankrupt them. Such financial barriers will always be a barrier that prevents individuals or groups from obtaining justice. Ramping up the costs only creates an environment that preserves injustice and allows the initial decision maker the luxury of making decisions without necessarily examining all the evidence. The only time this then gets examined is when the number of injustices make it is subject to a public enquiry.

- 3.48. Would it not be better to ask are their reasons the customer to get legal advice why they did “X” and even suggest appropriate phrasing for their answer, providing a list of possible excuses. A team to examine spurious answers, would at least have the potential to avoid the legal cost of appeals and prosecutions, if the supplier or regulator got something wrong. The average cost of court time at the High Court runs to tens of thousands depending on the size and experience of the employed council on both sides. Even to apply for bankruptcy, costs £680 which is, given the definition of bankruptcy, an amount that will be diverted away from the creditors. Consequently, money spent on a team of independent examiners may be money well spent.
- 3.49. The other solution would be to reduce the cost of an appeals dramatically, for both sides, placing equal limits on the amount they can pay for advice and representation based, on the amount that the party who is appealing sets at the outset. I doubt, however, that such an approach would be popular with the legal profession.

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36. What unintended consequences or risks should the government be aware of when considering making this amendment to code modification appeals?

- 3.50. Unite has already highlighted the risks of a system that relies on the ability to recover costs in that it can stand in the way of justice if a situation has not been properly investigated. It also punishes those with the inability to pay. The CMA’s remit is to prevent monopolies and introduce competition with a view to encouraging the lowest cost to be applied, it is not therefore interested in what is good for the workforce whose jobs are placed at risk and salary increases are driven into the floor as companies economies to keep prices low. This means skills will be lost as those with the ability move to arenas with less constrain on their futures. The CMA are equally not interested in the quality of the service provided only that there is competition. This could lead to breakdowns in the supply of safe clean water, pipe repairs that cause the problem to move down the street rather than the replacement or relining of the pipe to prevent a repeat of the issue¹⁸.
- 3.51. The UK economy has improved to the stage were there are more jobs advertised than people seeking roles, mainly because of the amount companies are willing to pay. To attract and retain the best and brightest, costs. Therefore, instilling into the system the requirement for more competition will cause competition based on who can charge the least and get away with paying the least for staff. This will cause skilled staff to leave for pastures new, and gaps appearing that the remaining staff will be required to manage, causing, in turn, a ripple that will soon result in the supplier being unable to deliver. As things stand in the water industry, it has been Unite’s experience that fewer and fewer staff are now employed as those that leave are not replaced.
- 3.52. Unite believes that for Competition, to exist in the water industry there needs to be enough workers employed by the competing companies to deliver the services. As the water industry has been cut back

¹⁸ In January 2022 [Direct line highlighted that Burst pipes cause almost £50 million of damage a year](#) that highlighted that customers can be to blame for flushing the wrong things down the loo.

to the bone, there is not enough meat left to pick over to make competition viable especially when it comes to the handling of waste water.

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37. What are the costs and benefits of moving the regime from a redetermination to an appeals standard?

Do you have any evidence for this, for example from other regulated sectors or international examples of appeals regimes?

- 3.53. Unite does not wish to respond to this question as we have no evidence, we could provide that could assist with a cost benefit analysis of the difference between a redetermination and appeal. Given the rise in legal costs and queues for cases to be heard at the High Court one would have thought that a determination could be cheaper as each side could decide to fund a substantial legal team, resulting in a ramping up of costs.

38. What risks of making this change should the government be aware of?

- 3.54. Unite does not wish to answer this question beyond the points that have already been made re access to justice and the deterrent to seek justice on the basis of what can be afforded by the party appealing the decision. Appeals often go the way of those with the deepest pockets than those who have a valid cause for appeal.

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39. What information do you consider necessary for Ofcom to include in its decision documents?

- 3.55. Unite's response is restricted to the matters that impact Ofwat and Ofgem only.

4. Conclusion

- 4.1. Unite would like to stress that it believes that the battle ahead is to protect the public at large from the extremes that climate change will bring including both heat and cold. The provision of water to the public, to farms and production facilities safely requires investment into resilience to stop all the rainwater flowing out to sea when it rains.
- 4.2. Unite believes that both the water industry and energy sector would fare far better under public ownership which would allow the provision of power to fall under the same footing as the provision of water. To do this it will require investment to undo the damage done to our supply networks from the lack of investment and maintenance under private ownership.
- 4.3. Ofwat and Ofgem both have the duty to protect the public from the extreme demands of the commercial competition that was introduced to prevent exploitation. They have failed in this and rather than become a barrier to excess, have welcomed it and stood by allowing people to die of hypothermia or heat exhaustion, from the impacts of mouldy homes. At the same time the rich got richer at the expense of the public with dividends going to some of the richest people on the planet.
- 4.4. Unite agrees that the system is broken but the solution is not more competition, the solution is to grow a moral compass and identify what is worthwhile from what is a drain on resources. Is it right that more families than ever are in fuel poverty reliant on food banks, in a first world country? Unite agrees that more should have been done to protect the public and the workers from the lack of resources to carry out their role, including a decent wage and the ability to retire without fear of losing the roof over their head through the inability to pay the energy bill.
- 4.5. Unite would agree that an appeals process would be a good if the parties going into the process have an equal ability to pay for a skilled legal team. Sadly, that is never the case and it is usually the deepest pockets that win in an appeal hearing in court, especially if the losing side need to incur the costs of the

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victor. The guaranteed winning side is the legal profession. As such the mere thought of the cost element is enough to settle a dispute even if this does not represent justice. For this reason, Unite would oppose a move toward the legal route unless all other options have been exhausted.

- 4.6. Competition has left behind it, international millionaires and the destitute. It redistributes wealth and does not care how it goes about getting there. The role of a regulator is to prevent extortion and prevent competition from reaching its goal of ultimate dominance and to add checks and balances to ensure the best deal is achieved. Competition leaves behind it the weak and those with the inability to pay and with no lifelines. Unite hopes that those at the top have a moral compass, to not leave behind those at the bottom, just because they can. The role of a regulator is to provide just outcomes, to catch the organizations who do not have a moral compass.
- 4.7. Ofwat and Ofgem appear to have failed as regulators potentially due to government ideology and the greed of the minority in power. Using Accountancy and company law the parties have avoided some of the checks and balance of the regulator and the regulator has not acted to counter this action. If the goal is more in the interest of UK plc. then the goal should be the retention of profits for investment into the improvements that are needed to cope with an expanding populous and needs that evolve to anticipate the changes in the climate. Instead assets have been sold and debt incurred to pay dividends even when the company was making losses often through a company ownership structure.
- 4.8. The battle we all face, is to tackle poverty and climate change, to ensure we have a society that is able to realize the benefits of living on this planet. We need to act, to provide the energy and water supplies that keep the populous healthy. We need to act to ensure that businesses pay their way and are able to stay solvent. It is the role of protector of the general populous. A move to hand determinations into the hands of the CMA would be a further step away from that role of protector and instead open the way for a race to the bottom.

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Appendix – Water industry offences

The website [Violation Tracker UK](#) is a wide-ranging database of enforcement actions brought against companies by government regulators in England, Scotland, Wales and Northern Ireland. It contains more than 90,000 cases involving issues such as financial misconduct, workplace abuses, environmental offences and anti-competitive practices, combining cases resolved since 2010 from over 70 regulatory agencies.

Company	Service area	Company Website	Violations ¹⁹	Environment related Offenses	Total Fines and penalties since 2010
Water and sewerage companies					
Anglian Water	East of England	Official website	74 listed	72	£6,197,650
Northumbrian Water	North East England	Official website	63 listed	59	£3,900,169
Severn Trent Water	West Midlands, East Midlands, Chester	Official website	81 listed	80	£5,816,549
Southern Water	South East England	Official website	79 listed	74	£220,228,436 ²⁰
South West Water	South West England	Official website	166 listed	162	£6,781,712
Thames Water	Greater London, Thames Valley	Official website	97 listed	87	£174,667,964
United Utilities	North West England	Official website	215 listed	209	£6,558,810
Welsh Water	West Midlands, (Wales)	Official website	234 listed ²¹	231	£333,023
Wessex Water	South West England	Official website	20 listed	17	£1,643,847
Yorkshire Water	Yorkshire and the Humber	Official website	93 listed	88	£108,865,935 ²²
Total paid in penalties and fines by main water and sewage companies					£534,994,095
Water Only Companies					
Affinity Water	29 locatons Central, East & South East regions	Official website	3 listed	2	£110,000
Albion Water	3 locations in Hampshire, Chigwell & Gloucestershire	Official website	0	0	£ -

¹⁹ This includes everything from breaches of health and safety, consumer protection and Environment related offenses.

²⁰ This includes the payment of £126 million in 2019 in penalties and payments to customers following serious failures in the operation of its sewage treatment sites and for deliberately misreporting its performance and a further £90 million after pleading guilty in court to thousands of illegal discharges of sewage which polluted rivers and coastal waters in Kent, Hampshire and Sussex.

²¹ 232 listed under Dwr Cymru and 2 listed under Welsh Water

²² This included a £100 million commitment to Ofwat reduce spills to the environment from storm overflows in addition to already committed investment, in an undertaking with Ofwat settling concerns that the company had made inter-company loans to associated companies to an extent that could leave Yorkshire Water without the financial resilience to carry out its licence obligations to customers and the environment.

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Company	Service area	Company Website	Violations¹⁹	Environment related Offenses	Total Fines and penalties since 2010
Bournemouth Water	6 locations	Official website	0	0	£ -
Bristol Water	6 locations	Official website	1	1	£15,000
Cambridge Water Company	2 locations	Official website	0	0	£ -
Cholderton and District Water Company	6 locations	Official website	0	0	£ -
Essex and Suffolk Water	13 locations in Essex and Suffolk	Official website	0	0	£ -
Hartlepool Water	Only Hartlepool	Official website	0	0	£ -
Portsmouth Water	7 locations		1	1	£ -
South East Water	16 locations		2	2	£ -
South Staffordshire Water	12 locations		1	1	£ -
Sutton and East Surrey Water	8 locations		0	0	£ -
Youlgrave Waterworks	Youlgrave only	Official website	0	0	£ -
Total paid in fines and penalties by water only companies					£125,000

Water Only Companys	Locations served	Owners
Affinity Water	Central region: Amersham, Barnet, Beaconsfield, Bishop's Stortford, Harlow, Harrow, Hemel Hempstead, Letchworth, Luton, Saffron Walden, St Albans, Staines, Stevenage, Uxbridge, Watford, Welwyn Garden City, Woking East region: Brightlingsea, Clacton-on-Sea, Frinton-on-Sea, Harwich, Manningtree, Wivenhoe Southeast region: Dover, Folkestone, Hythe, Romney Marsh, Dungeness, Lydd	Morgan Stanley/M&G Investments
Albion Water	Knowle Village (Hampshire), Oaklands Hamlet (Chigwell), Upper Rissington (Gloucestershire)	Albion Water Group Limited
Bournemouth Water	Bournemouth, Christchurch, Lymington, Ringwood, Verwood, Wimborne Minster	Pennon Group
Bristol Water	Bristol, Burnham-on-Sea, Frome, Tetbury, Wells, Weston-super-Mare	Pennon Group
Cambridge Water Company	Cambridge, St Ives	South Staffordshire Water

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Water Only Companys	Locations served	Owners
Cholderton and District Water Company	Amport, Bulford, Cholderton, Quarley, Shipton Bellinger, Thruxton	Cholderton Estate
Essex and Suffolk Water	Essex region: Basildon, Brentwood, Chelmsford, Southend-on-Sea, Thurrock, Barking and Dagenham, Havering, Redbridge Suffolk region: Aldeburgh, Eye, Great Yarmouth, Lowestoft, Southwold	Northumbrian Water Group
Hartlepool Water	Hartlepool	Anglian Water
Portsmouth Water	Bognor Regis, Chichester, Fareham, Gosport, Havant, Hayling Island, Portsmouth	Ancala
South East Water	Eastern region: Ashford, Canterbury, Eastbourne, East Grinstead, Haywards Heath, Maidstone, Sevenoaks, Tonbridge, Royal Tunbridge Wells, Whitstable Western region: Aldershot, Basingstoke, Bracknell, Camberley, Maidenhead, Petersfield, Wokingham	Hastings Diversified Utilities Fund/Utilities Trust of Australia
South Staffordshire Water	Aldridge, Brownhills, Burton upon Trent, Cannock, Kinver, Lichfield, Rugeley, Sutton Coldfield, Tamworth, Uttoxeter, Walsall, West Bromwich	Independent
Sutton and East Surrey Water	Cobham, Dorking, Horley, Leatherhead, Oxted, Redhill, Reigate, Sutton	Sumitomo Corporation ^[2]
Youlgrave Waterworks	Youlgrave	Independent non-profit

