XVth World Water Congress

Competition without Privatisation: The Scottish Water Model

Presented by Fiona Parker, Shepherd+ Wedderburn LLP. Co-authored with David Walters, Water Industry Commission for Scotland. Sister paper with Dr. Sarah Hendry, PS15.6.

EICC, Edinburgh, 26 May 2015
Introduction

Is it possible to have (useful) competition without privatisation?

If so, how?

The Scottish experience shows it is possible to maintain public ownership and control and to secure equal (or greater) efficiency.

Two regulatory methods have helped do that:
  – Comparative competition
  – Regulated retail markets
Background: A Parliament's Obsession

• **The Water Industry (Scotland) Act 2002**: Created Scottish Water and the legal framework for current system of economic regulation.


• **The Water Services etc (Scotland) Act 2005**: Introduced retail competition and updated the framework for economic regulation.

• **The Water Resources (Scotland) Act 2013**: Focuses on promoting the wider use of Scotland’s water resources.
Key Dramatis Personae

- **Scottish Water**: Publicly owned, statutory corporation, whole supply chain. Funded through customer charges and public loans.
- **Scottish Water Business Stream**: Ring fenced subsidiary of Scottish Water, retails water and sewerage to non-household customers.
- **Other Licensed Retailers**: Currently 17 other companies licensed to retail.
- **Scottish Minsters**: Ultimate control of Scottish Water. Set policy framework and strategic objectives.
- **Water Industry Commission for Scotland**: Issue licenses and regulate wholesale prices.
- **Scottish Environmental Protection Agency & Drinking Water Quality Inspectorate**: Monitor and enforce environmental and drinking water standards.
- **Customers**: Population of circa 5 million. Non-Household market turnover circa £375m p/a
Regulatory Method 1: Comparative Competition

Historic System:
1. Ministerial Objectives and Lending
2. Scottish Water Business Plan
3. Commission Comparison
5. Scottish Water Appeal?
6. Commission Approval of Annual Charges Scheme

New System:
1. Ministerial Objectives and Lending
2. Scottish Water Business Plan
3. Commission Comparison
4. Commission Guidance on Ranges
5. Customer Negotiations
6. Commission Detr. CPI-X
7. Scottish Water Appeal?
8. Commission Approval of Annual Charges Scheme

Turnover circa £1.1bn/$1.7bn
2002-15 invested £6.6bn/$10.2bn
Savings circa 30-40% since 2002
Regulatory Method 2: Retail Competition

Context

English and Welsh Industry

Privatisation without Competition?

Albion Water Competition Law Challenge

English reform: Water Act 2014

Scotland’s answer…..Water Services etc (Scotland) Act 2005

The Water Services etc (Scotland) Act 2005

Created competition for retail services to non-household customers (business; public and third sector).

• Criminal offence to use the public water / sewerage network

• Unless you are a) Scottish Water or b) a Licensed Retailer

• Gives the Commission power to set the rules of the game
Competition without Privatisation: The Scottish Water Model

Scottish Government

SEPA

DWQR

NH Retailer

SWBS

Abstraction / Disposal

Treatment Network

Scottish Water

Distribution Network

Household Retail

NHC

NHC

NHC

HC

HC

HC

HC

HC

© Shepherd and Wedderburn, 26 May 2015
Competition without Privatisation: The Scottish Water Model

Scottish Water

Central Market Agency

Scottish Government

Physical flows

Retail Market

SEPA

NH Retailer

SWBS

NH Retailer

DWQR

NHC

NHC

NHC

NHC

NHC

NHC

NHC

NHC

NHC

Water Industry Commission for Scotland

© Shepherd and Wedderburn, 26 May 2015
Results so far…

- Annual Gross Value c. £375m/$580m
- Estimated net customer saving £138m/$230m (‘09/10 prices)
- C. 20% customers switched
- Over 2/3rds of customers have negotiated a better price and/or service
- £37m/$62m over 4 years direct public sector saving*
- Estimated set up costs £22.5m (‘09/10 prices), pay back circa 5 years after market opening.

*Source: http://www.watercommission.co.uk/UserFiles/Documents/WICSHouseofCommonsPaper(C).pdf
Lessons Learnt

• It is possible to keep public ownership and control and to secure equal (or greater) efficiency.

• It is vital that the public, Ministers and competitors have trust in the system. Achieving that continues to depended on:
  – **Transparency** – codification of systems and processes.
  – **Fairness** – demonstrably level playing field, same rules for everyone.
  – **Legitimacy** – Ministerial objectives, customer choice.
Fiona Parker
Senior Solicitor, Regulation and Markets
Shepherd+Wedderburn LLP

DL: + 44 (0) 141 566 7220
E-mail: fiona.parker@shepwedd.co.uk