

Mr Märt Ots  
Competition Authority  
Auna 6  
10317 Tallinn

Your ref: 25.10.2010  
Our ref: 27.10.2010 No 6/1058709-3

Dear Mr Ots,

Can I first of all thank you for sending your updated version of the Recommended Principles for Calculating the Price for the Water Service to AS Tallinna Vesi (ASTV). As I mentioned in my previous letter dated 27 September 2010, AS Tallinna Vesi recognises the importance of high quality regulation and believes that the implementation of regulation that meets with international best practice standards will bring considerable benefits to the customers and the industry as a whole.

We will all know from experience that a high quality regulatory system is best implemented with the full and active involvement of all industry participants – water companies, municipalities, ministries, and customers. Ensuring due process is followed and giving time for discussion and analysis is a prerequisite of any good regulatory regime. It is for these reasons that AS Tallinna Vesi in cooperation with the regulation team from United Utilities took the time and trouble to make a thorough and detailed analysis of the draft you issued on 7 September – our document contained over 8 pages of regulatory principles, comments and questions that needed answering or clarifying. Moreover, as in some of your public statements you had referenced the Ofwat methodology, the UU regulation team, with almost 20 years of experience working with Ofwat, were ideally placed to comment and help improve the methodology.

I appreciate the fact that CA organised a presentation on its draft recommended methodology, with Siiri Lahe and Ilona Nurmela participating from AS Tallinna Vesi. The main purpose of the meeting was for the CA to present its methodology and to answer some basic questions. The intention of the meeting was not to work through the questions and concerns of the water companies. In fact you stated in the meeting of 4 October that the summary table containing all comments and your responses would be ready and issued not before but at the same time as the re-drafted methodology. The delay being due to the number of comments meaning the CA would not be able to issue those comments beforehand. Finally, to be professional and transparent, and to ensure there were no misunderstandings about what was said in the meeting, the ASTV representatives minuted the key points from the meeting. These minutes were sent to you for comment and agreement on 13.10.10 however to date we have not received any response from you and your team.

On 19 October myself and Siiri Lahe had a further meeting with you to discuss how the CA would or had considered the terms and conditions of our privatisation contract and if and how the CA would fully protect the purchasing power of invested capital from the impact of inflation. Regarding the first point, you stated that you hadn't seen or read the contract and were not aware of the details. However we informed you that the Services Agreement is a document that is publicly available and that all the key company information is also contained in the IPO documentation the company produced when listing on the Tallinn Stock Exchange in 2005. Regarding the second point, you stated that the CA will fully protect invested capital from inflation and that this will be done through the WACC calculation of by enabling companies to index the RAB by CPI each year.

Given all of the above I was astonished to read the latest draft of the CA's methodology did not include any of the amendments raised by the company, nor did it contain any responses to the points and questions we included in our previous letter. Furthermore, in spite of your verbal commitment at our meeting on 19 October the key regulatory principle of fully protecting investing capital from the impact of inflation has once again been omitted from the methodology,

Additionally, you have requested that ASTV submit its comments to the latest draft by the close of the working day on 27 October. This gives the company less than three working days to respond. This is

not in accordance with any form of best practice principles and certainly does not allow sufficient time for the discussion and analysis of regulatory best practice.

I appreciate that in trying to work within such a short time frame the CA was only fulfilling an administrative requirement established by the AMB when requesting comments from the water industry and never intended to engage in meaningful dialogue. It seems that the CA is task-oriented to forcefully establishing a kind of methodology by 01.11.2010, without any regard to comments from the industry that you are going to be regulating. Such conduct is aimed at establishing not a reasonable, but some sort of a pre-determined, regulation that does not accord with best practice principles and indicates not only a breach of due process, but also a probable bending to political will.

As we stated in our previous letter the Competition Authority has mentioned AS Tallinna Vesi as one of companies involved in developing the methodology however to date it is apparent that we have not had any real involvement in developing this methodology. Therefore at this point in time we feel it is impossible for the methodology to reasonably claim that we have been *involved* in its drafting.

ASTV welcomes and is willing to fully participate in a professional discussion to develop best practice regulation of the water industry. Furthermore, ASTV would very much like to have the opportunity, to work through all the points we and our regulation experts from United Utilities have raised, and to discuss in some detail our privatisation contract and the Services Agreement we have with the City of Tallinn. Such a professional dialogue can only help improve the quality of regulation and will avoid an ill-informed breach of a contract that has delivered significant benefits for the citizens of Tallinn.

Considering the above, we therefore feel it necessary to submit to you the same set of proposals, comments and questions as we submitted in our response of 27 September 2010. To assist you with this I have once again included all the comments and questions we raised in our response of 27 September 2010 – see appendix 1. We would therefore like to respectfully request the following:

1. Please respond to all of our principles, comments questions contained in appendix 1 of this letter;
2. Please elaborate – individually per each comment or suggestion or proposal – why you have NOT included in your price methodology neither the comments, suggestions or proposals made in appendix 1 in our previous correspondence.

Yours sincerely

Ian Plenderleith

Chairman of the Management Board

Annex 1: Letter No 6/1052315 sent by ASTV to the Competition Authority on 27.09.2010