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Negotiated Settlements and Customer Engagement in UK Utility Regulation: Evidence from Airports, Water and Energy

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A negotiated settlement is an agreement reached by the main parties in a regulatory process, rather than leaving every issue to be decided by the regulator. Such settlements have been used for many years in North American utility regulation, but only to a limited extent in the United Kingdom.

This paper examines what the UK might learn from overseas experience and from regulatory practice in airports, the Scottish water sector and energy networks. It draws particularly on presentations given by the authors at a Cambridge seminar in March 2026.

In the United States, negotiated settlements are a normal part of utility regulation. They often involve several parties, including regulated companies, consumer advocates, industrial users, trade associations, environmental groups and regulatory staff. They may cover a package of issues such as prices, investment, service quality, cost recovery and risk sharing. The regulator still has the final responsibility for deciding whether an agreement should be accepted. Recent examples in Texas and Florida show that settlement remains important in major current cases, including large programmes for network resilience and multi-year electricity rate plans.

Canadian practice is similar, especially in the regulation of oil and gas pipelines. There has been more explicit emphasis on the regulator reviewing the settlement process and the agreement as a whole, rather than reopening every element separately. This has allowed companies and customers to agree multi-year packages covering tolls, costs, incentives and risk sharing.

The UK airport experience provides the clearest example of direct interaction between regulated companies and their customers. From the mid-2000s, the Civil Aviation Authority encouraged airports and airlines to discuss traffic forecasts, service standards and investment plans directly. This "constructive engagement" did not usually produce a complete settlement, but it helped clarify the real areas of disagreement and made the process more focused on airline and passenger needs. Later experience at Heathrow and Gatwick shows that the approach has continued, although the amount of agreement has varied.

The Scottish water sector provides the strongest UK example of something close to a negotiated settlement. The Water Industry Commission for Scotland created a Customer Forum

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and asked it to seek agreement with Scottish Water on the company's business plan for 2015–21. The Forum used customer research and negotiated over expenditure, service and charges. The resulting agreement included stronger efficiency and service commitments and lower charges than would otherwise have emerged. A later attempt was less successful because the regulator allowed less room for negotiation and the investment issues had become larger and more difficult.

Energy regulation has followed a different path. Ofgem has increased customer research, stakeholder groups, challenge panels and ongoing engagement, but it has not given customer representatives a formal bargaining role. The regulator still determines the price control.

The experience of North America, UK airports and the Scottish water sector shows that direct bargaining can improve the regulatory process, sharpen the issues, strengthen customer influence and produce better agreed outcomes. Negotiated settlement deserves more serious consideration in UK regulation generally.

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