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Dear Sean

Ofgem Direct Debit Arrangement Report and Consultation

E.ON welcomes the opportunity to respond to the Direct Debit Arrangements report and consultation, and would like to note its support for the response submitted by the Energy Retail Association (ERA).

We are surprised by Ofgem's proposal to introduce licence conditions considering that the overall conclusion from your investigation showed there was no evidence of suppliers boosting cashflow or having systematic errors.

We accept that significant improvements need to be made to our communications to customers to make them clearer when direct debit payments change. This includes delivering detailed training to our staff and managers to create a level of expertise to deal with often complex issues.

The approach taken by Ofgem, to propose a licence condition, seems a backward step from the principles adopted during the Supply Licence Review of 2007:

- Removal and simplification of licence conditions – clearer, simplified obligations and targeted regulation;
- Striking the balance between competition and regulation – customer ability to choose to switch supplier if they are unhappy;
- Protection of vulnerable customers – retention of limited obligations to allow the market to function properly and protect those who are vulnerable
- Opportunity for self-regulation – where appropriate;
- Promotion of innovation – removal of licence conditions that could stifle

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innovations and competition.

Moreover, Ofgem's review has laid the foundation for competitive pressures to provide the basis of improved service to customers, but this is not explored as the means of protecting consumer interests. Ofgem's analysis, and proposals for best practice, gives a clear marker for Consumer Focus and other organisations to inform customers of supplier performance. Ofgem's factsheet itself will inform consumers, and highlights to suppliers how they need to improve to secure a positive assessment.

We recommend that these developments and suppliers improvement programmes are allowed time to take effect before considering direct regulation through a licence condition.

Chapter Two

Question 1 – Do you agree with our analysis of the issues?

Yes. Ofgem's analysis is the first comprehensive review of direct debits. We are pleased that it confirms no malpractice by suppliers and accept the structured analysis including criticism of communications and training, which were exacerbated by the impact of rising energy prices. Although, we had already recognised that customers were dissatisfied and complaints had risen, on reflection we should also have proactively recognised the market conditions that were affecting customers and put enhanced communication plans in place.

Question 2 – Do you agree with the elements of best practice we have identified?

A. Frequency of reassessments

Our response to question A on 11 December 2008 detailed our commitment and beliefs surrounding frequency of assessments. In principle our approach is to review Direct Debit payments at every quarter with the aim for customers to achieve a zero balance at their annual spring review (a tolerance level is set within the value of a month's payment).

This is in line with Ofgem's proposals for best practice. However, we suspect this may be too simplistic – constant reassessment may not be suitable for all customers. For instance, some may prefer a fixed budget scheme which is settled at the end of a defined review period.

B. Flexibility on debt rollover

Our current systems give us a level of flexibility, with controls, to accommodate customers' needs.

Customers joining with an existing debt can have this included into their first year's payments. This is negotiated with the customer. However, we are

improving our communications with customers so they are clearly aware of how our scheme works

Any debit balance identified at a review date is automatically spread over the period to the next Spring review date (or the one after if less than six months away). Should a customer request an alternative payment rate, whether to clear any outstanding debt and reduce payment amounts, or extend a repayment period, this will be agreed with the customer.

C. Meter readings

In addition to active management of Meter Reading activity against our meter portfolio, we encourage customers whose consumption we have estimated to provide their own readings. This is followed by a consecutive estimate reporting where we write to customers explaining why a report is important, the message will get stronger dependent upon the number of estimated reading used.

These measures are all subject to external review via independent audit of the Code of Practice for Accurate Billing and no significant non compliance was identified in our 2009 audit assessment.

D. New customers

We have fully reviewed our training through all of our sales channels that will be completed by early June 2009. We recognise that communications for new customers is also required and we are currently in the planning stages of a detailed programme of work.

We do use best information at point of sale to establish the correct Direct Debit amount and this coupled with quarterly reviews helps to ensure that customers are paying the correct amounts.

Industry improvements to this activity such as providing a statement of annual consumption are supported within the scope of the Energy Supply Probe.

E. Individual explanations of the basis of reassessments

We agree that customers should be able to secure a full and individual explanation of any reassessment and with the improved training we have in hand believe we will be able to deliver this is through our customer service agents on request. We will support this with a clear explanation of the principles communicated to customers (see F).

However, we do not believe the benefit from automatically providing a detailed calculation, on the SSE model, is justified given the compromise it would cause with clear and simple billing and the costs of IS development, moreso given the improvement to customer experience which will happen from the training and

other developments described in this response.

Note also that the proposed probe remedies would also put pressure on already stretched IS development resource and although Ofgem must set minimum standards where there are substantive issues of customer protection, this does not apply here, and a better principle would be to set desired outcomes and allow suppliers flexibility over the mix of measures to meet these objectives.

We propose to review the benefit of individual customer communication in 2010 following review of the effect of all the improvement we are undertaking.

F. Clear explanations of how Direct Debits work

Please see our separate attachment (in confidence).

G. Willingness to enter dialogue

We accept this as best practice and believe our proposed communication to customers will promote contact if customers are concerned. This is supported by the comprehensive retraining programme for all staff we have underway.

H. Informed customer service staff

We agree that staff must be able to explain the basis of reassessment and be willing to agree alternative amounts. Our training programme will ensure that staff are able to make effective use of our system capability.

We would not normally confirm any agreement in writing as telephone is our preferred medium, but should a customer ask for detailed information around payment adequacy or require confirmation we will do this.

I. Policies on refunds of credits

As reflected in Ofgem's findings we consider our refunds policy to be robust and best practice.

Question 3 - Are there any other elements of best practice you think we should consider?

No, although we will continually review our processes, including as noted above in light of complaint levels.

Chapter Three

Question 1 - Is a licence condition needed in this area? Please give reasons.

As already outlined we do not believe there is a need for a licence condition. The benefits of the improvements we have in hand and the lack of any specific vulnerability issue make a licence condition disproportionate regulation.

Moreover, suppliers should have sufficient space to develop their own propositions rather than being subject to potentially rigid licence requirements which do not reflect the changing face of the consumer market and needs.

Question 2 – Do you consider that suppliers could deliver the improvements we have identified through self-regulation?

Suppliers have already demonstrated that effective self regulation can be achieved – for example the Code of Practice for the Face to Face Marketing of Energy Supply and the Code of Practice for Accurate Billing. The findings of the Direct Debit Investigation highlight a lack of transparency and poor communications rather than deliberate or systemic errors and our view is that these are best placed to be resolved through allowing us to demonstrate best practice within this area.

After a period of up to 12 months and Ofgem can clearly demonstrate serious supplier poor performance, they could then require self regulation or consider a licence condition.

Chapter Four

Question 1 – Which of the options A, B or C do you consider would be the better approach? Are there any other models we should consider?

We do not consider any of the above options to be the best approach, being both disproportionate and assuming a set of best practice which is not valid.

Option A

As noted in section E above we do not agree that this is best practice, but have also committed to reviewing the impact of the steps we are taking and therefore to consider the need for such a commitment, which could then be self-regulatory.

Option B

This option is more flexible, but “all reasonable steps” is a very demanding, yet judgemental, test which creates a level of regulatory uncertainty which would likely see a disproportionate level of effort going to improve direct debit services. The condition may also become unworkable with smart meters, where the availability of demand information allows a continuous interpretation of changing usage patterns.

Option C

This would be wholly disproportionate to the concerns raised. The principles of the Supply Licence Review are correct, that Ofgem should focus prescriptive regulation on protecting vulnerable customers from serious adverse effect. Moreover, as noted in discussion of Sections A and E above there is no clarity on what prescription is appropriate, as well the risk of stifling innovation amongst

suppliers (particularly high risk as smart meters are introduced).

Question 2 - Should any obligation apply to small business consumers as well as domestic consumers?

No. Aside from the arguments over the appropriateness of the regulation in the domestic market, a review of the evidence from the small (micro-enterprise) business market is required before considering regulation. We are not aware that this has been done. On our part, our improvement plans will benefit all customers.

Question 3 - What would be a realistic timescale for implementation?

We do not agree that individual statements are appropriate, but if Ofgem is minded to seek such a change then it must be considered together with the various IS developments proposed in the Probe, many of which affect billing systems. Our current thinking is that these would need to be implemented in phases from Spring 2010 over a period of up to eighteen months.

We expect the improvements we are making to be fully effective over the next 3 - 6 months support the ERAs proposal for an independent audit around the end of the year.

Please do not hesitate to contact me if you need more information.

Yours sincerely

Graham Kirby
Retail Regulation & Energy Policy Manager