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Dear David

### **Retail Market Review: Domestic Proposals**

Thank you for providing SSE with the opportunity to respond to Ofgem's Retail Market Review: Domestic Proposals. The RMR is being conducted at a time of high energy prices, low consumer confidence, and heightened political and media attention on energy bills. Against this background, energy companies are making significant investments to deliver on the Government's low carbon agenda – we confirmed in our recent Interim Management Statement that we continue to expect total capital and investment expenditure to be around £1.7bn for 2011/12. Regulatory stability and the restoration of consumer confidence are critical in creating a suitable environment to sustain this ongoing level of investment.

SSE believes that the GB energy supply market is competitive, and that this competition continues to be the most effective means of protecting consumers' interests. We recognise that there are challenges affecting the market; SSE was the first of the major suppliers to make a public commitment to addressing customers' concerns when we announced our Building Trust initiative in October 2011. There have subsequently been similar moves from British Gas, Eon and EdF, which we would cite as further evidence that competitive pressure is the most efficient means of delivering the best outcome for customers. With our concern regarding the restoration of consumer trust in mind, we will fully support considered and proportionate measures that will address this issue.

SSE agrees with Ofgem that energy suppliers have to transform the way they deal with customers; that is what our Building Trust programme is designed to achieve and it demonstrates that SSE recognises the need for change. Our fundamental concern with Ofgem's approach, however, is that there is no clear and measurable definition of what a successful outcome of its proposed measures for change would be; indeed, there is no clearly-defined goal. Without such a definition or goal, significant and radical interventions such as those proposed cannot be justified. This means they are high risk because many of the consequences, which cannot have been fully thought through in the absence of a definition or goal, will inevitably be unintended. With Ofgem proposing a fundamental shift in the balance between competition and regulation, the responsibility for such risks will increasingly lie with it.

### **Standing charges**

In this context, we are very concerned by the increasingly dirigiste nature of Ofgem's proposals for tariff reform. We strongly oppose the proposal for Ofgem to set the standing charge. We believe that this is a very dangerous step to take – by removing the ability of suppliers to manage their own risk of under recovery of fixed costs across their particular customer base, there is every likelihood that this proposal will result in suppliers including a risk premium in their unit rates (above the level that they could otherwise offer). One of the many unintended consequences of this proposal is therefore the likelihood of a rise in energy bills for customers on standard tariffs. We discuss our concerns about the consequences of this proposal in more detail in the Executive Summary and in the detailed Annex to this response.

Similarly, SSE believe that the level of restriction imposed on the evergreen standard tariff market is arbitrary and will seriously damage competition, further eroding consumer trust. At a fundamental level, the set of tariff proposals in their current form sends a strong message to consumers that they are right to be distrustful of energy suppliers, as Ofgem is equally distrustful of the competitive market. The restriction is arbitrary since the likely response of suppliers is to offer the majority of the benefits that are currently available in the evergreen market as options in the fixed term market instead. This could lead to a significant proliferation of tariffs, as it is likely that there will be increased numbers of short term offers in the non-standard market designed to attract customers who have traditionally been unwilling to lock themselves into a particular price for more than 12 months. What is particularly alarming about this limitation of evergreen tariffs is that Ofgem's proposals ignore key findings in its own consumer research.

### **Customer choice**

Ofgem has presented data collected by Creative Research ("Tariff Comparability Models Volume 1 - Consumer Qualitative Research Findings") which show a clear preference from consumers for the style of tariff presentation that SSE advocates, whereby customers choose a tariff with clear visibility of selectable options that could provide a saving. This is slightly pejoratively labelled 'airline options' in the consultation document, evoking the threat of hidden costs – we would prefer to liken it to the immediately familiar process of selecting pizza toppings; removing unwanted toppings (for example quarterly credit) provides a saving, whereas more expensive toppings (such as paper bills) add a premium. As announced this week, we have gone live with the first stage of our simplified tariff presentment with planned enhancements later this year subject to Ofgem's implementation of the RMR proposals.

Ofgem's quantitative research found that nearly 67% of respondents (and a majority in all sub groups) would prefer evergreen tariffs to include the same range of extra features as fixed and tracker tariffs (Ipsos MORI, "Consumer Reactions To Varying Tariff Comparability").

It is therefore mystifying that Ofgem should choose to favour tariff reforms which ignore significant findings from its own consumer research. We believe that the presentation of tariffs with additional service options, if handled appropriately, provides the most promising route to resolving confusion around each customer's choice of the best tariff for them. We urge Ofgem to look again at the limitations it has proposed around the evergreen tariff and consider ways that it could relax these restrictions to the great benefit of all consumers.

### **Standards of conduct**

We are also very concerned by the implications of the proposed Standards of Conduct (SoCs) as an overarching licence condition. Whilst we fully support measures to instil confidence in customers that their supplier can be held to account for the standard of service they provide, we remain of the view that a public commitment to uphold standard (as we have made in our Customer Charter) is a more proportionate method to achieve this. Existing regulations (including the Complaint Handling Standards, Consumer Protection Regulations and the Guaranteed Standards) already provide the protection that Ofgem claim is required. The SoCs therefore present a risk of double or triple jeopardy in the event of any breaches, whilst Ofgem has provided no details of specific gaps in the existing regulations that it wishes to cover through this licence condition.

There are various issues with the introduction of a principle based regulation of this type that would encompass all interactions between suppliers and consumers. As we discuss in more detail elsewhere in our response, we are also unclear as to the approach that will be taken to enforcement of SLC 1A, and whether this is fully aligned with the requirements for effective principles based regulation.

We are also extremely concerned by the use and interpretation of the term 'representative.' We discussed this issue in our response to the non-domestic consultation in relation to monitoring the behaviour of Third Party Intermediaries in the non-domestic market. SSE is particularly concerned at the prospect of brokers or aggregators being classified as suppliers' 'representatives' by virtue of commission payments alone. With the introduction of collective



switching within the domestic energy supply market we believe that the same issue will need to be addressed in this market. It is inappropriate to put a burden on suppliers to regulate the behaviour of brokers with whom they do not have a contractual relationship.

We would favour a requirement for suppliers to make a public commitment to uphold either the SoCs defined by Ofgem, or a customer charter of their own where that specifies a higher standard of service. The benefits of this option are described in our detailed response.

### **Conclusion**

We welcome Ofgem's desire to help suppliers rebuild trust amongst consumers. We believe that Ofgem has correctly identified many of the key issues that need to be addressed to remedy the current perceived levels of distrust and disengagement, but we would urge Ofgem to consider the concerns we have about the details of the proposed solutions. These concerns primarily focus on the adverse impact on competition, the imposition of costs on suppliers without a detailed cost benefit analysis and the introduction of further barriers to entry.

We present our response to all of Ofgem's proposals in more detail in the attached Executive Summary and the Annex to this response. We will continue to engage with Ofgem in a constructive manner in order to arrive at the best possible outcome for consumers in the GB energy supply market. Please contact me on 01738 456726 if you wish to discuss any of these issues, or the other points raised elsewhere in this response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Roger Hutcheon', written in a cursive style.

Roger Hutcheon  
**Regulation, Markets**