



Jonathan Blagrove
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

09th July 2021

Dear Jonathan,

TotalEnergies Gas and Power (TGP) response to the Ofgem statutory consultation relating to the Microbusiness Strategic Review.

TGP is the largest non-domestic gas and electricity energy supplier in the UK. Our customers include Industrial, Commercial and SME / MBC customers and we welcome the opportunity to set out our views on Ofgem's finalised package of measures and accompanying draft licence conditions.

Question 1: Do you agree that 1st January 2022 represents an achievable start date for implementing a 14-day cooling-off period for MBC consumers?

This is a complex area and we strongly recommend that the industry is given more time to implement this measure. The industry is in the middle of the implementation of the faster switching programme. Suppliers have limited resource for IT implementation projects so resources would have to be reassigned to implement a cooling-off period in parallel and at such short notice. We suggest that the implementation date should be moved to after July 2022, the current target date for cut over to faster switching arrangements. Further, we believe that all the measures should be implemented at the same time rather than split over two releases.

Question 2: Do you agree that 1st January 2022 represents an achievable start date for fully implementing both the proposed supply licence obligation and the associated scheme needed to introduce independent dispute resolution for microbusinesses in dispute with a broker?

We believe that the proposed date is achievable for Suppliers, but we do not believe the timescale is realistic for the industry, particularly the ADR body and Brokers themselves. There are many outstanding questions to resolve around Broker



accession, funding, engagement, rules for complaint resolution, and the Suppliers' role in any resolution which we believe will require more time.

Question 3: Do you have any other comments on our proposals?

Disclosure of Broker commissions

With respect to the publication of commission on Principal Terms, we believe the proposals to publish whole contract value is confusing for customers. This is because as well as being presented with the Unit Rate and Standing Charge that they will be paying, customers often also ask for an estimate of the annual bill value that they will be paying. Therefore, we believe that presenting the contract commission value will be misleading to the customer in making a comparison. We therefore request Ofgem should consider amending this proposal so that an annual amount is stated to the customer which would help them to compare contracts on a like for like basis.

Principle terms within 1WD

We do not believe it is clear how the provision of Principal Terms within 1 WD of entering into a contract will work. We believe this needs to be amended to take into consideration existing market practices. For example, it may take a few days for notice of contracts to arrive with suppliers from a Broker so the supplier would be unable to provide Principal Terms within 1WD of the customer entering into a contract through a Broker. Further, the Supplier's acceptance of that contract is subject to a credit check or provision of security deposit, so it would be inappropriate to provide Principal Terms prior to that.

Therefore, we believe the obligation on suppliers should be within 1WD of receiving notification of a contract and following acceptance by the supplier following a credit check or receiving suitable security deposit.

ADR Scheme

TGP acknowledges and supports the work that BEIS is now undertaking regarding the potential regulation of Brokers either directly or through a code of practice. However, this will take some time, so we therefore support the introduction of an ADR scheme to help resolve customer complaints regarding Brokers. This support is subject to a longer implementation timescale set out under Question 2 of this consultation.

New and Existing contracts

We believe all the proposals should apply to new and renewal contracts only and not to existing contracts. For example, it would be complex to amend all existing contracts to account for the change to 30-day notice period. Further, declaration of Broker commissions for existing contracts would be much more complex to implement from a systems perspective to cater for those few customers that might contact suppliers to ask about their historic commission payments. It would be simpler, more practical and less costly to implement all the measures, particularly disclosure of commissions for new customers only.

Notification period

TGP believes the current 30-day notice requirement is fair and reasonable for both customers and suppliers. If suppliers received no notice period it would create uncertainty and therefore is likely to increase risk and cost.

Broker definition

The proposed drafting is unclear with respect to how Brokers are classified. Third party sales agents that sell directly to customers on behalf of a supplier operate in the same way as suppliers own direct sales force so should be excluded. This is particularly pertinent in circumstances when the supplier uses outsourced resource to sell on its behalf, in its name. For example, an outsourced customer service centre dealing with existing customer contact that also makes sales on behalf of that supplier would seem to be included under this definition. The licence condition should be amended to make it clear that the changes only apply to Brokers that sell on behalf of multiple suppliers.

Implementation timescales

In addition to the specific points raised in questions 1 and 2 regarding implementation dates for cooling-off and ADR, we believe the proposed lead time for the other measures currently scheduled for Autumn 2021 is too short. Measures such as disclosure of commissions and timescales for sending principle terms require changes to IT systems, business processes and staff training. We appreciate potential changes have been under consultation for some time, but Suppliers require certainty to implement IT changes and it is not practicable to implement such changes at 56 days' notice. As stated in question 1, we suggest the implementation date for all measures is moved to after faster switching go-live currently scheduled for June 2022.

Microbusiness definition & identification

We feel that the current definition for Microbusiness leads to challenges in identifying and updating records to ensure customers receive the right treatment. We would be supportive of a simpler definition of a Microbusiness customer, perhaps based purely on consumption, or a microbusiness identifier held centrally which can be seen by all relevant parties. A Modification (0773) related to this has recently been raised for gas and we are supportive of this change.

Question 4: Do you have any comments on the draft supply licence conditions at Appendix 1 in this document?

We believe that the drafting of the licence conditions should be amended to take into account the points raised above.

Should you wish to discuss any of the above further or require any more information please do not hesitate to contact me.

Yours sincerely

Andrew Green
Head of Regulation
TotalEnergies Gas & Power