

Submitted via email to:

RetailFinancialResilience@ofgem.gov.uk

17/01/2022

Dear Retail Finance Resilience team,

Good Energy's response to the statutory consultation on measures to strengthen our milestone assessment framework and increase scrutiny around significant commercial developments and personnel changes

Good Energy supplies 100% renewable electricity and carbon-neutral gas to homes and businesses across the UK. Good Energy is working towards a renewable future, helping to support technologies including wind, solar, biofuel and tidal. Our purpose is to power the choice of a cleaner, greener future together.

Summary

- **Good Energy welcomes improved standards of financial resilience and consumer protection across the retail market. However, we cannot support the proposals in this consultation.**
- **Ofgem have not provided sufficient evidence to demonstrate that these proposals would deliver positive change.**
- **Ofgem should first use their existing powers under the Financial Responsibility Principle (FRP) and milestone assessment licence conditions as mechanisms for ensuring a financially resilient retail market.**
- **The extended milestone assessments present significant practical implications and are not a proportional response for prudently run suppliers.**
- **The proposals to notify of significant commercial developments and personnel changes in a defined period in advance are incompatible for public limited companies.**
- **Any additional reporting requirements introduced should be brought up to the level to which Public Limited Companies (PLCs) are subject.**
- **Moving straight to a statutory consultation at a time when so much change is being planned will mean sub-standard analysis, industry engagement, and ultimately, policy.**

Ofgem should first use utilise their new financial scrutiny powers

Before introducing new measures, we feel it is appropriate that the new powers granted under the Supplier Licensing Review (SLR), which includes the Financial Responsibility Principle (FRP), are properly tested by the regulator.

This new obligation gives the regulator the necessary powers to ensure that suppliers act in a financially responsible manner and take steps to bear appropriate share of their risk.

Due to the scale and unprecedented nature of the recent wholesale crisis, we appreciate that the FRP as a mechanism alone would not have been sufficient to prevent the number of supplier failures last year. However, at the time of writing, the FRP has not yet been in license for a full year – clearly not enough time to analyse its effectiveness.

Some (but not all) of the suppliers who have exited the market recently did so due to high-risk business models and a failure to hedge sufficient power in advance. As a point of principle, it seems unfair that additional requirements are being brought in and imposed on the remaining suppliers in the market – who up to this point have been able to withstand the price shocks due to stronger business models, because of the failings of previous companies who have by in large exited the market.

Under the FRP (SLC 4B)¹, suppliers need to be able to provide evidence on the following:

- Have plans to meet their financial obligations by deadlines.
- Efficient processes for setting direct debit balances, checking, and returning credit balances.
- Sustainable pricing approaches allowing them to cover costs over time.
- Robust financial governance and decision-making frameworks in place.

Similarly, since the SLR reforms, the new requirement for milestone assessments has yet to be fully tested.² Before any prescriptive requirements come into force, we would like to see evidence as to what benefit additional changes will bring for both consumers and Ofgem. Whilst we appreciate a degree of eagerness for regulatory change, this should be done with convincing, supporting evidence.

Therefore, we would suggest that all of Ofgem's new financial scrutiny powers are first given an opportunity to be properly utilised and embedded as the central component in ensuring a financially resilient retail market.

¹ https://www.ofgem.gov.uk/sites/default/files/docs/2021/03/frp_guidance_final_0.pdf

² https://www.ofgem.gov.uk/sites/default/files/docs/2020/11/milestone_assessment_guidance.pdf



Milestone assessments

Good Energy cannot support the proposals to pause domestic customer onboarding once customer milestones of 50,000 and 200,000 are reached.

Whilst sympathetic to the original rationale Ofgem provided for bringing in assessments as part of the Supplier Licencing Review (ensuring unsustainable business models don't grow unchecked and protecting consumers from the risk of mutualised costs), this extension is neither proportional nor fit-for-purpose as a remedy for the issues in hand.

In fact, this proposal could still fuel unsustainable business models. As it is licence based, a supplier could be prevented from on-boarding electricity customers if they reach one of the thresholds for example, whilst on the other hand continuing to aggressively target gas customers with a riskier strategy (or vice versa).

Prudently run, financially robust suppliers should not be penalised for the previous actions of other market participants adopting unsustainable practices. We cannot support this proposal but at a minimum the pause for domestic onboarding needs to be reviewed urgently – especially with the suggestion this could take 30-60 days. This also becomes problematic if a supplier has customer accounts in the region of either milestone.

It would be highly disruptive and inappropriate if a supplier capably operating with just over 50,000 or 200,000 customers were, after a period of churn, dip below the threshold, only to be prevented from acquiring any more customers. We would strongly suggest that the licence conditions be modified to ensure that suppliers do not have to undertake assessments if they have recently been operating above the customer number threshold.

We would also suggest that if these strengthened milestone assessments are to be brought in then this should be done in advance of the milestone being reached. For example, if a supplier has ~40k domestic electricity customers, then Ofgem could initiate an assessment at this stage to ensure they aren't growing unsustainably in advance of them reaching 50k customers. This would avoid a ban on new acquisitions and fulfil the objectives of tighter financial scrutiny.

Consumers should be free to choose which supplier they would like to be with. Introducing a temporary ban on acquiring new customers is not a sustainable solution to ensuring a healthy, competitive market.

Commercial developments & personnel changes

Good Energy cannot support the proposed amendments to introduce a defined period in advance to notify of significant commercial developments and key personnel changes.

From a purely practical level, this is not possible for Good Energy adhere to because of our requirements as a PLC. We have strict rules around releasing commercially sensitive information and



would not be able to release this 30-60 days ahead of time, as suggested in this consultation. This will be the case for many other suppliers as well.

Turning to the personnel changes, Good Energy adheres to and has supported the current requirement of notifying of key personnel changes within our organisation. Adding a 'defined period in advance' to this requirement becomes problematic, namely because appointments of senior staff don't follow a set pattern. Appointments vary by the individual and their personal circumstances – adding a prescriptive timeframe is not proportional nor sensible solution for commercial organisations.

Finally, it is unclear as to what the net benefits would be for consumers with the introduction of notifying in a 'defined period in advance'. We are also unsure of the powers Ofgem would have at their disposal in order to prevent senior appointments of staff being appointed or prevent commercial trade purchases from taking place.

We recommend that Ofgem maintains the existing requirements for notifying of significant commercial developments and key personnel changes. Attention should be largely focused on scrutiny of new entrants, via the separate fit and proper workstreams. Ensuring they have the robust business plans and responsible individuals in place to operate in the retail market is absolutely essential.

Any additional reporting requirements should be brought up to a level that PLCs are currently subject to

Public limited companies, like Good Energy, are already subject to significant audit requirements as part of our responsibilities of being an AIM listed company. In addition to our additional reporting responsibilities, we must disclose and make transparent to shareholders and the wider market, metrics including our annual results, interim results and operational performance.

It is our view that the proposals under consideration in this consultation would add significant unnecessary burdens to suppliers who are already undertaking additional levels of reporting. In reference to our earlier points, we are unable to see the justification for these changes, especially in light of a lack of evidence and the existing powers yet to be fully assessed.

A more pragmatic approach would be to ensure the remaining suppliers in the market are brought up to the same level of reporting that companies, like Good Energy, are currently subject to.

It is also unclear from these proposals as to what additional information Ofgem would be able to acquire that is not already available, either from Ofgem data requests or through the transparent publishing of results through our AIM requirements. For this reason, we find it hard to see how these specific new requirements would enable improved monitoring of PLCs.

If further prescriptive requirements were brought in for PLCs, it could deter other financially resilient companies from considering entering the retail market in the future.



Policy implementation process

We would also like to raise concerns about the approach taken to regulatory change and engagement with regards to these proposals. In the consultation Ofgem note that the proposals could have a 'significant impact' on the market. If this is indeed the case, then it is imperative that due process be followed and a full policy consultation take place, rather than moving straight to a statutory consultation.

I hope you have found our response helpful. If you would like more information, or have any questions about our views, please do not hesitate to let me know.

Kind regards,

Simon Shaw
Regulatory Affairs Officer