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24 January 2022

Statutory consultation on proposals to modify licence conditions related to the Switching Programme

EDF is the UK's largest producer of low carbon electricity. EDF operates low carbon nuclear power stations and is building the first of a new generation of nuclear plants. EDF also has a large and growing portfolio of renewables, including onshore, offshore wind and solar generation, and energy storage. With around six million electricity and gas customer accounts, including residential and business users, EDF aims to help Britain achieve net zero by building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

The retail energy market, driven by the volatility of wholesale energy prices, has been through a period of significant disruption in recent months. Since September 2020 approximately 26 suppliers have ceased trading, and millions of customers have needed to be allocated to a Supplier of Last Resort (SoLR). There is no indication that this situation is likely to improve in the foreseeable future.

Given, amongst other things, the:

- energy crisis and the ongoing challenges and uncertainties in the wider energy market that suppliers face; and
- the increased costs to suppliers such as EDF, following numerous SoLR processes,

it is imperative that Ofgem considers whether it remains the right time to implement new industry systems and complex changes to the switching process as part of the Switching Programme. Implementation of the Switching Programme must serve consumers' best interests and those of current suppliers. Given the current challenging market conditions for the remaining energy suppliers it is not clear that is currently the case.

The current volatility of prices in the market means that any changes could result in a large amount of switching activity being triggered in a short space of time. Based on current projections there is the potential for this to occur in the summer, possibly as early as June. Should this shift occur around the same time that the Switching Programme changes are being implemented, high volumes of customer switches will be reliant on brand new systems and processes that have not been tested at volume in real world conditions. Any issues that arise will then be amplified by the

volume of switches being processed, and large numbers of consumers will be impacted. When planning Go Live, Ofgem will need to consider the risk of expected high volume switching activity, as this will directly impact consumers that are trying to switch and risk further harm to consumer confidence in the energy market.

Changes to the supply licences to mandate faster switching and enable switching during the cooling off period will create additional hedging challenges for suppliers, and introduce further areas where customers that we expected to supply on contract default back onto deemed contracts and the price cap. Ofgem should consider separating the implementation of the new Central Switching Service (CSS) and the shorter switching timescales set out in the legal drafting, including the ability to switch during cooling off. This would enable the new switching systems and processes to be implemented, and any issues identified and addressed within the current switching timescales. It would also mitigate the hedging risks to suppliers. Given the current levels of switching in the market, such a delay would have minimal impact to consumers and provide confidence that the systems and processes are fit for purpose, if and when switching rates do change.

Once stability has been achieved and the conditions in the market support it, switching timescales could be reduced, for example to five days. Given the current state of the market, Ofgem should consider only moving to five days, and not moving to next day switching until it is proven that this reduction will not pose further risks to energy suppliers and consumers.

Given the limited time to Go Live, any changes to the implementation approach need to be made urgently so that suppliers and other parties can make any changes required.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Paul Saker or myself.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely

A handwritten signature in black ink, appearing to read "Denise Willis".

Denise Willis
Senior Manager of Industry Change

Attachment

Statutory consultation on proposals to modify licence conditions related to the Switching Programme

EDF's response to your questions

Q1. Do you agree that the proposed changes to the Electricity Supply Standard Licence Conditions will ensure the licence reflects the necessary conditions for implementation of the Switching Programme?

EDF broadly agrees that the changes to the Electricity Supply Standard Licence assist with the implementation of the Switching Programme. However, EDF does have some specific points it wishes to raise:

1. Removal of Condition 14A.3(C)

EDF acknowledges the changes to the definition of "Relevant Date" but disagrees that this change obviates the need for condition 14A.3(C). EDF cannot see how it can be expected to facilitate a customer transfer within five working days when it does not have all the information required to do so.

There is a significant difference between "sufficient information to conduct the switch" in conjunction with the customer's reasonable expectation that a switch can take place without further action on their part and the licensee having "all of the information it requires in order to complete the Supplier Transfer".

From a practical perspective the removal of the condition 14A.3(C) safeguard means the five working days "clock" starts once the customer sends to EDF (either directly or via a representative) what they believe to be sufficient information, rather than from the date EDF receives all the information it requires to make the transfer possible. This could penalise EDF due to delays by the customer or their representative in providing all the information EDF requires, which could be more than what the customer deems is sufficient.

2. Typographical error in condition 14A.4A

The phrase "the earlier of the expiry of:" should be replaced with "the later of the expiry of:" in condition 14A.4A for points (a) and (b) to work as intended.

3. Changes to Condition 14A.7

In addition to the general comments made in the covering letter with respect to Ofgem's longer term intention for five working day switches to move to next working day switches, EDF is concerned by "...take all reasonable steps to maintain, and where appropriate, improve...". The concern would be eased where this general obligation could be suspended for the period of a force majeure ("FM").

EDF believes it would not be reasonable for us to maintain this general obligation for matters that may be outside of its control such as IT systems failure for an extended period for reasons not of EDF's making. It is acknowledged that EDF could rely upon the FM exemption in Condition 14A.3(e) for specific Customer switches, but EDF believes that the same principle should be extended to the general obligation in condition 14A.7.

4. Condition 14A.14

Condition 14A.14(b)

Given current energy market conditions, condition 14A.14(b) should be deleted so that EDF can recover its pre-estimated losses of providing the services under the Contract between the customer entering into the Contract and the customer terminating the Contract during the cooling off period. An example of one cost/risk to EDF in this scenario is hedging. This will be commercially challenging, particularly with a high volume of customer switches where EDF believes a customer is joining EDF, the customer is switched to EDF, additional power is purchased and hedged, and then that customer leaves.

Remainder of Condition 14A.14

The remainder of Condition 14A.14 also illustrates commercial challenges for suppliers seeking to hedge energy costs. EDF could have two categories of customers who are temporarily charged under their Principal Terms before potentially defaulting on the Deemed Contract Charges – those customers who are new to EDF and elect to cancel their Contract within the cooling off period and those customers who had switched from EDF to a new supplier, cancelled that Contract then returned to EDF under the Switching Regime.

These situations and the impacts on suppliers should be re-reviewed by Ofgem in light of current market conditions.

Q2. Do you agree that the proposed changes to the Gas Supply Standard Licence Conditions will ensure the licence reflects the necessary conditions for implementation of the Switching Programme?

Please see above – EDF's comments apply to both the gas and electricity supply licences. EDF does not have further, gas-specific comments.

EDF
January 2022