

To: Non-domestic Retail Policy Team
Ofgem
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E14 4PU

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From: Arthur Probert
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Non-domestic Market Review: Findings and Policy Consultation

Thank you for the opportunity to provide our comments on this matter. Ameresco Limited is considered to be one of the leading third-party intermediaries working with larger consumers in industry and the public sector. From this perspective, we have the following comments on specific questions in the consultation.

Q6. Do you have any other comments on the other proposals in the Pricing and contract behaviour section?

We note the references to increased volatility in the market. One of the factors behind this identified by others is that liquidity in the market has reduced, so that it is more difficult to secure hedges. There is a reinforcing loop between higher volatility and lower market liquidity and we would propose that Ofgem considers re-introducing a mechanism such as the Market Making Obligation. We appreciate that this was established for a different situation, but consider it is worth investigating again whether it can be a suitable tool to enable additional liquidity and improve competition in the retail market.

Q7. Which documents, or combination of documents do you believe would provide a robust evidence base to demonstrate a genuine CoT/CoO?

A key point about the evidence base required is that it will need to be able to cover a variety of situations and provide ways forward that are within the gift of the outgoing occupier. For example, one of our clients returned their property to their landlord, who simultaneously sold the property on to a third party. Our client could not be aware of this transaction or who was to be the subsequent occupier, but has been considered liable for the consumption after its exit.

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Q11. Do you have any views on what (if any) threshold should apply on business size for complaints handling requirements, or views on which requirements set out in the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 should not be expanded to apply to all non-domestic customers?

We have experienced many cases where larger non-domestic customers' issues are not resolved promptly and do not see a reason why the size of a customer should determine how their complaint is handled. We would suggest that the default position is that the complaint handling standards are expressly acknowledged and built into suppliers' terms and conditions for all customers, but with an opportunity for alternative timescales to be negotiated and agreed with a customer.

Q12. We are seeking stakeholder views on our suggested proposals to government around increasing access to the Energy Ombudsman. Should there be a threshold on who can access the Energy Ombudsman? If so, where should this be set?

We support all customers having access to the Energy Ombudsman. Most of our clients' ability to seek redress or change from a supplier is constrained, such that the following issues have had to be managed by legal action (rarely due to the cost), negotiation with the supplier and/or persistence:

- A supplier levying deemed contract rates in October 2022 after they declined to provide a renewal offer, with consequential increases in the cost to the client and in the amount the supplier was able to recover under the EBRs;
- A supplier registering an Energy Intensive Industry-eligible site within industry systems, but then seeking a contract renegotiation to implement the EII benefit for the customer and not passing on any benefit in the meantime;
- A supplier registering Energy Intensive Industry-eligible sites within industry systems, but only passing the benefit to customers when the charges are reconciled more than six months later, giving the supplier a cashflow benefit instead of the customer;
- Stopping legal action for bills incorrectly raised after changes of tenancy;
- A supplier applying inconsistent approaches to its calculations of wholesale costs chargeable to a client and the benefit due under the EBRs;
- A network operator seeking the recovery of 20 years' charges after a site that had been shipperless was put into contract; and
- A supplier applying different tradable volumes from those set out in the contract or in subsequent reforecasts when determining the weighted average cost of electricity for billing purposes.

Q13. We are seeking stakeholder views on the proposed changes to the rules requiring suppliers work with TPIs who are members of a redress scheme. Additionally, what are your views on the costs and benefits associated with the different proposals?

We have a small number of clients that fall within the scope of the existing ADR arrangements and so are already registered with the Energy Ombudsman. In line with our response to question 12, we consider that expanding the current arrangements to cover all customers will be the most effective solution.

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As some suppliers required all their TPIs to sign up to the redress scheme, regardless of whether they dealt only with customers larger than Micro Business Customers, we would expect that the additional costs from this proposal will be limited.

Q14. What are views from stakeholders on how long it would take to set up and register for a wider TPI ADR scheme, one that goes beyond Micro Business Consumers?

As some suppliers required all their TPIs to sign up to the redress scheme, regardless of whether they dealt only with customers larger than Micro Business Customers, we would expect that the time required to set up and register for a wider TPI ADR scheme will be limited.

Q15. What are your views on our proposal to expand SLC OA (non-domestic Standards of Conduct)? Do you have any views on which consumers they should or should not apply to? Please provide any views on costs and benefits of making this change.

We consider that the non-domestic Standards of Conduct should apply to all customers and refer you to our answer to question 12 in support of this position.

Q20. Are there views on how commissions disclosure is best presented to be understood by consumers?

It is important that the Third-Party Costs are seen in context of the overall costs. Presentation as a cost per unit of energy could be a suitable way of achieving this.

We note that the current licence condition drafting would lead to the provision of the Third-Party Costs for the full duration of the relevant contract. If this option is to be adopted, so that the amount is seen in context, the Third-Party Costs need to be provided alongside the all-up cost of the contract (including energy costs, network charges and policy costs from the Renewables Obligation, Capacity Market and so on and the Climate Change Levy).

Q21. Should we expand commissions disclosure to all non-domestic customers or a subset of customers, and if a sub-set do you have views on how to define this?

In line with our approach elsewhere, we would expect commissions disclosure to apply for all non-domestic customers.

If you have any questions on the points raised, please contact us through the number below.

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