



By email only: NonDomesticRetailPolicy@ofgem.gov.uk

6 September 2023

Dear Sirs,

**Re: Non-Domestic market review: Findings and policy consultation**

Verastar Ltd (“Verastar” or “we”) supplies multiple services including gas, electricity, water, insurance and telecoms to over 130,000 microbusinesses, of which 23,000 are gas and/or electricity customers. We are regulated by Ofgem, Ofwat, WICS, the FCA and Ofcom. Our experience in five regulated sectors provides valuable insight into the supply of such services to microbusinesses and we welcome the invitation to provide our views on current risks in the energy market, drawing on our experiences in other regulated sectors.

We generally agree with the proposals set out within the non-domestic market review. Irrespective of size, all non-domestic customers, should expect pricing transparency, competitive offerings, a minimum level of customer service, support when things go wrong and to be treated fairly.

Where we have additional commentary, we have responded to your questions using your numbering.

**Pricing and contract behaviour**

**Q2. Do you agree with our proposed definition of ‘significantly exceeds’? Please provide your reasons.**

No. We do not believe that Ofgem’s definition of ‘significantly exceeds’ creates the level of transparency required to provide clear guidance for suppliers, in particular the use of the words ‘not otherwise justified’. Justification can vary significantly from supplier to supplier. Ofgem’s suggested definition of ‘significantly exceeds’ is:

*“the deemed rate is much higher than an equivalent contracted rate, and that this difference between the deemed rate and the equivalent contracted rate is not otherwise justified”.*

We suggest ‘significantly exceeds’ should mean:

*“the deemed rate is much higher than an equivalent contracted rate and, excluding legitimate differences in commodity costs and appropriate debt and risk premia provisions, contains an increased profit margin percentage when compared to the equivalent contracted rate.”*



This would allow suppliers to price in appropriate levels of debt and risk premia not seen in contracted rate equivalents, whilst not onerously profiting from deemed contracts.

On review of the guidance, we strongly disagree with the working example of ‘significantly exceeds’ set out within A1.28 of the consultation document. This implies that the hedging profile for a fixed term contract is comparable to that of a deemed contract. For small suppliers, this simply is not true. There is significant volatility in the deemed book, with suppliers like us hedging 2-3 months in advance. If the wholesale price was to change significantly within the example 12-month period set out in Ofgem’s guidance document, this movement would be reflected in the deemed price but would not be reflected in the fixed price contract equivalent.

Ofgem has confirmed that the deemed guidance will be mandatory for all suppliers. We would suggest that the Standard Licence Conditions are updated to reflect the guidance, instead of having separate documentation. Having multiple documents, some of which are best practice and some of which are mandatory, in addition to the Standard Licence Conditions and other industry codes, can create confusion. Alternatively, the links to the most up-to-date mandatory guidance should be included within the Standard Licence Conditions.

### **Competition in the Market and Customer Service**

#### **Q7. Which documents, or combination of documents do you believe would provide a robust evidence base to demonstrate a genuine Change of Tenancy / Change of Ownership?**

Robust evidence of a genuine Change of Tenancy / Change of Ownership should include at least two of the following:

- Certified lease or tenancy agreement
- Certified termination of lease
- Proof of purchase or sale of a property
- A solicitor’s letter confirming the details of a move in or out of a property
- VAT Registration
- A copy of the customer’s business Insurance
- Land Registry
- Food Hygiene Certificates

As stated in our response to the Call for input on the non-domestic gas and electricity market on 31 March 2023, we understand that Ofgem’s role is protect energy consumers.

However, we’re disappointed to see that despite several suppliers expressing concerns about the financial impact of fraudulent and/or evasive customer activity during the Change of Tenancy / Change of Ownership (COT/COO) process, Ofgem has focused on supplier delays in processing paperwork. We agree that Ofgem’s proposal would allow genuine COTs/COOs to be processed more efficiently and we support the proposal, but this does not help suppliers with the financial impact of ingenuine



applications. We have proposed several solutions which we feel would help reduce the impact of fraudulent activity, including:

- Strengthening the legislative framework on liability (similar to the Water Resources (Scotland) Act 2013) so that both owners and occupiers are responsible for updating occupancy information and are jointly liable for charges where this information is not updated.
- The right for suppliers to refuse to accept a COT/COO where they have valid reasons to believe that it is/may be fraudulent, or the COT/COO is an attempt to avoid liability to pay. The previous tenant or the landlord would be responsible for payment until such time as this was resolved.
- The right for suppliers to de-energise the supply point or cap supply until it has received satisfactory evidence of the correct owner/occupier. For example, the occupier/owner could be required to swear a statutory declaration to confirm they are the occupier/owner.
- Improved education and signposting - an education and signposting piece endorsed by Ofgem and/or other third parties such as Citizens Advice, FSB etc. providing a checklist of new occupants' responsibilities could help. The checklist would include actions such as contacting utility suppliers and taking meter readings on the day of the change. This would ensure that suppliers have all the information they need to process COTs/COOs and split billing between the tenants, without using estimates, at the earliest date possible.

We hope that these, or similar measures, will be considered in the consultation later in the year.

**Q9. Is an obligation requiring efficient and timely complaints handling needed? If so, what are the costs and benefits associated with introducing this?**

We're unable to comment on the costs of rolling out efficient and timely complaints information to non-domestic consumers beyond the scope of microbusinesses as we do not provide services in this space. We supply primarily microbusiness, and we give the same level of protections to SMEs as if they were microbusinesses.

We are of the view that every customer has the right to complain and customers should expect to see at least a minimum level of service, particularly when something goes wrong.

**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'd question whether the Ombudsman Services have sufficient resource to be able to review complaints if their terms of reference were expanded to include all/a wider range of non-domestic customers. The onboarding of a large company in the telecommunications space had a knock-on effect for other suppliers and end users of the service. For example, there were delays in cases being



reviewed and resolutions being issued as the Ombudsman Services adapted to the changes in workload and resources. We'd be concerned about the same happening in energy.

Where there are particularly complex complaints with potentially significant financial implications for the customer and/or supplier, we question whether the Energy Ombudsman has the appropriate training to be able to rule accurately and efficiently; particularly when another solution is the customer pursuing legal action. We question whether the Energy Ombudsman's remedies and awards matrix would need to be reviewed to guarantee its appropriateness for larger industrial and commercial customers.

**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?**

The new TPI redress scheme came into effect on 1 December 2022. We note within Ofgem's text that the Ombudsman Services report 285 accepted cases, of which 144 have received an outcome. Of these, 71% were upheld for the Micro Business Consumer. We don't necessarily agree that enough time has passed since the rollout of the TPI redress scheme to be able to accurately ascertain whether the TPI redress scheme has been successfully implemented, particularly as the broker market has not yet returned to normal. We don't believe that the rollout of the TPI redress across all / a wider range of non-domestic customers would have the same success as it does in the microbusiness market.

We hope you find this response useful. If you have any questions, please do not hesitate to contact me.

Yours Sincerely,

Laura Jayne Owen  
Senior Compliance Officer