



Ofgem consultation – Non-domestic market review

Consultation response by ENGIE Power Limited

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ENGIE Response

Thank you for the opportunity to respond to the consultation, please find our summary comments and our response to the questions set out below.

Executive summary

Non-Domestic suppliers have reacted quickly in response to the recent price shocks to implement government schemes (EBRS, NDAFP and EBDS) providing welcome bill relief for the most affected customers. The costs of implementation have been significant in terms of staff time and system changes, and suppliers have borne these costs without subsidy or additional costs for consumers. Similarly, we have engaged throughout the period to furnish the regulator with extensive information, via numerous RFI responses, to monitor the health of the market. We have responded in good faith to ministerial calls for market based solutions providing additionality to government support, and it should be noted that such actions have stretched both balance sheets and shortened cash positions during a period of heightened high capital requirements in the wholesale market.

The GB non-domestic market has flourished for over twenty years to provide consumers with access to the most competitive energy supply market in Europe, and this has been achieved without the need for significant regulatory interventions. Given that wholesale market conditions are beginning to stabilise it seems unnecessary now for further interventions. It may be more effective for the regulator to step back and let competitive market resume rather than to impose more regulation. To impose additional regulatory burdens now may have the effect of reducing competition, by either discouraging new entrants or by encouraging market consolidation as can be evidenced following interventions in the domestic market. At best, new regulations will add costs to consumers as the costs of administering additional operations will be baked into supplier running costs over the long term.

Now is the time to return to market based ideas and allow suppliers sufficient breathing space to develop truly valuable customer solutions rather than frustrate these further in favour of implementing additional regulatory proposals.

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Consultation responses

Section 2: Pricing and Contract Behaviour

Q1. Do you agree with our proposal to agree voluntary improved pricing transparency and if so, please include comments on the particular areas you would like to see made more transparent?

The transparency of TPI fees should be a market driven issue and controlled by TPIs themselves. Whilst we favour transparency as an approach, this has to be delivered in a meaningful way. We do not feel that it would be in consumers interests to place an additional requirement on energy suppliers to disclose TPI fees in either the SME or the I&C markets, over and above the existing micro-business requirement. This is because there is a clear differentiation between the services offered in the micro-business market, where generally TPI fees are related entirely to a market search, and the SME and I&C segments where the services offered by TPIs are wider, and may include services such as market search, wholesale market services, supplier negotiation, invoice validation, data provision, meter services provision etc. Clearly, many of these services are bespoke and involve significantly more intensive activities than market search alone.

Given that these services are more complex and diverse and hence are not directly comparable in the same way as a market search, it could be misleading to represent these fees via a simple bundled cost, disclosed by the energy supplier. Energy suppliers would not be party to sufficient information to fairly reflect the different service proposals of a third party, nor should they be required to do this. It would be much clearer for the TPIs themselves to disclose in a more precise and dis-aggregated way directly to their clients so that customers can see precisely what they're paying for and make an informed choice. And because many TPIs already take this approach, we suggest that this is a matter for TPIs collectively to develop via the TPI Code of Practice currently being developed under the Retail Energy Code.

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

The consultation (A1.28) document defines "significantly exceeds" by comparing a supplier's published deemed rates with an equivalent contracted rate for a similar customer over a similar period and then a judgement is made on whether the difference between the rates is justified. This judgement of whether a contract is unduly onerous, despite Ofgem's efforts to set out its principles, will ultimately be subjective, potentially confusing, and open to challenge.

Ofgem's commentary (A1.38) in relation to "relevant classes of customers" is contradictory in respect of recovering network charges. In para 2.49 Ofgem rightly acknowledge that suppliers are blind to, amongst other things, the geographical location of where a deemed contract may arise. However, the guidance on what constitutes "significantly exceeds" relates simply to the generality of customers regardless of geographic location and vastly differing network charges.

Additionally, Ofgem should confirm in any guidance whether or not they consider a pass-through model of non-commodity costs (such as network charges) as acceptable, and if so to which particular customer segments or customer characteristics it should apply. There is a clearly a trade-off to be made between the complexity of charging structures and the comparability of rates between suppliers, as although a more complex set of rates and/or pass-through may be more accurate these are less easy to understand or compare than a fully fixed rate.

Q3. Do you agree with our proposal that suppliers should review deemed contract rates quarterly? Please provide your reasons.

Yes, it is reasonable to expect suppliers to adopt a quarterly review process given the general short-term nature of hedging deemed contracts. However, it is important for Ofgem to note that a review of prices does not necessarily mean a change to the rates. Other risk factors should be taken into consideration such as the magnitude of change in the wholesale market price, the prospect of volatility in the wholesale price in the forthcoming period or a change to the bad debt risk assessment.

Q4. Are there any potential implications for domestic customers that the proposed guidance on deemed contract rates may impact on?

Engie are no longer active in the domestic market and hence we have no further comments.

Q5. Do you have any further comments on our proposals for the deemed contract guidance?

As Ofgem have noted in the consultation document, the level of standing charges associated with a deemed contract has to encompass the potential costs of, amongst other things, fixed network charges which, since the Ofgem driven TCR changes, are both a larger proportion of the bill and exhibit greater variance between user bands and locations.

Further, as Ofgem also recognise, it is impossible for suppliers to predict how and where deemed contracts will arise, hence any consolidated inclusive pricing for deemed contracts will need to be prudent in regard to a user's load band, location and other characteristics such that the network costs are fully recovered. To this end **Ofgem should specify in their guidance whether, or to what extent a pass-through arrangement of non-commodity costs is acceptable when costing and publishing deemed contract rates and/or what customer segmentation would be appropriate**. We observe that pass-through arrangements for deemed are likely to be more cost reflective but less transparent than a fully fixed consolidated approach.

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

It should be noted that in many cases the deemed rates are cancelled once a contract has been agreed and specific contracted rates are backdated and billed to the supply start date.

Section 3: 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 CoT/CoO?

Whilst there may be a case for standardizing the CoT evidence for the generality of cases, there should also be room for supplier discretion to require further evidence in specific cases for example where there is reasonable doubt over when a CoT is genuine and/or there is a complex set of circumstances. The supplier must be able to retain the right to challenge the validity of information provided.

Q8. Are Micro Business Consumers aware they can contact Citizens Advice for support? Do we need to introduce a rule requiring suppliers to signpost them more specifically?

At Engie we already signpost micro-business customers to Citizen's Advice on our customer communications and on our website FAQs.

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

No.—The existing complaints handling regulations already provide for micro-businesses. and it would be inappropriate to apply these regulations to any customer who is served via direct account management. The intent of the existing regulations was to provide an underlying standard which is adequate to serve domestic and micro-business customers. These customers are likely to have similar expectations with regard to customer service and the nature of issues are generally routine and less complex than other sectors. The regulations also provide a route to challenge outcomes to the energy ombudsman service if not satisfied.

Whilst these regulations are entirely appropriate for the mass market, they are not suited to the SME and I&C segments. Customers in these markets are generally served by having direct access to an assigned account manager whose role it is to provide a bespoke response to queries and issues which are more likely to be complex in nature and require deeper knowledge. Service levels are often set within contractual arrangements and recourse to mass market type resolutions is entirely unnecessary as any issues are resolved bi-laterally. One single set of

standards will not work in practice as issues are wider, more complex and are often dependent on multi-party arrangements which often require longer resolution times.

Q10. Is an obligation requiring recording, handling and processing of complaints in accordance with consistent rules needed? If so, what are the costs and benefits associated with introducing this?

No, as stated above this would be unnecessary and meaningless for customers who are individually account managed. Ubiquitous standards may be appropriate for the mass market but will only add unnecessary cost to serve and administrative burden elsewhere and may even serve to detract from service levels overall.

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 are not in favour of extending the regulations for the reasons we have stated above in our answers to (Q9&10). If a threshold were set then this should align with supplier service provision i.e. where served by a call-centre rather than individually managed. This categorization will vary by supplier but may extend to some single site SMEs.

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 have concerns that the Energy Ombudsman has neither the capacity nor the capability to deal with the complexity required beyond the micro-business market. Both the current threshold (micro-business) and the award limit (£10k) appear to be appropriate. Expanding the remit of the Energy Ombudsman could also result in the unintended consequence of a more stretched service for domestic and microbusiness consumers.

Q13. We are seeking stakeholder views on the proposed changes to the rules requiring suppliers to 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 TPI redress scheme is nascent having been introduced in November 2022 and this should be left to settle down within its current bounds before any extension is considered. The providers need to develop experience, capability, and to develop trust within the micro-business sector before extending further.

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?

It is too early to judge whether the existing TPI ADR scheme is proving real benefits and the case should be proved before it is extended more widely. It is quite possible that widening the scheme at this point may be counterproductive and unintentionally prove to damage trust rather than enhance it.

Q15. What are your views on our proposal to expand SLC 0A (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.

Standards of conduct are primarily a competitive issue, by definition, if customer expectations are not being met then customers will choose to vote with their feet, changing supplier at the next available opportunity. We do not see a need for further regulation here.

Q16. Do you have any further comments on the proposals in this section on Competition in the market and customer complaints?

No.

Section 4: Focused support

Q17. What are the views of Distribution Network Operators (DNOs), Independent Distribution Network Operators (IDNOs), Gas Distribution Networks (GDNs), and Independent Gas Transporters (IGTs) on the potential issues of targeting support to vulnerable end users supplied through non-domestic contracts?

We agree with Ofgem's conclusion that PSR responsibilities sit better with the DNOs etc. for this group of customers.

Q18. What changes to the Maximum Resale Price direction would improve its effectiveness and what are the potential downsides to any changes?

Not applicable.

Q19. What are the costs and benefits associated with the proposal to expand TPI commissions disclosures to all non-domestic customers? How long would it take suppliers to implement this policy?

We feel it is more appropriate for TPIs themselves to set out their fees to consumers rather than this being a regulatory requirement for suppliers. This is because fees in the SME and I&C segments are likely to be related to a more diversified range of services and bespoke to customer's needs than what we see in the micro-business sector. It is not appropriate for suppliers to understand or represent these types of arrangements on their bills. See further our answer to Q1 above.

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

Any commissions will be better presented directly by TPIs themselves so as to properly represent the exact service provision.

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

See our answer to Q1.

Q22. Do you have any further comments on the proposals in this section on focused consumer support.

No further comments.

End of response.

If you have any questions or would like to discuss, please contact me as below.

P. Broom

Best regards

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